S. HRG. 98-272

RAILROAD RETIREMENT FINANCING

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1074, S. 1076, H.R. 1646

AUGUST 2, 1983

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RAILROAD RETIREMENT FINANCING

TUESDAY, AUGUST 2, 1983

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room SD-215, Dirksen Senate Office Building, the Honorable Robert Dole (chairman) presiding.

Present: Senators Dole, Chafee, Heinz, Long, Bradley, and Pryor.

[The press release announcing the hearing, background information on the railroad retirement system, and the prepared statements of Senators Dole, Heinz, and Pryor follow:]

[Press Release No. 83-165]

FINANCE COMMITTEE SETS HEARING ON RAILROAD RETIREMENT FINANCING

Chairman Robert J. Dole, (R., Kans.) announced today that the Senate Finance Committee will hold a hearing on Tuesday, August 2, 1983, to review legislative proposals to guarantee the secure financing of the railroad retirement system, including S. 1074, S. 1076, and H.R. 1646.

The principal witness will be David A. Stockman, Director of the Office of Management and Budget.

The hearing will commence at 10 a.m. in room SD-215 of the Dirksen Senate Office Building.

RAILROAD RETIREMENT FINANCING

FINANCE COMMITTEE INTEREST

In the Senate jurisdiction over the railroad retirement system is divided between the Labor Committee and the Finance Committee. The Labor Committee has responsibility for the basic benefit system and for the railroad unemployment compensation system. The Finance Committee is responsible for the taxes on rail management and labor that finance the system, for the financial interchange with social security, and for the limited borrowing authority from the Treasury which was approved in 1981 as part of ERTA.

The Labor Committee held a hearing on railroad retirement and unemployment financing in April 1983. The House Committees on Energy and Commerce and Ways and Means have reported legislation, H.R. 1646, regarding railroad retirement solvency. That legislation is awaiting action by the full House.

BACKGROUND

The railroad retirement system is established under Federal law to provide retirement benefits to employees of the railroad industry. The system is funded by special taxes on rail employees and employers. Similarly, unemployment benefits are provided to rail employees through a specially funded system administered by the Railroad Retirement Board. Rail employment is not covered by or taxed under either social security or the regular State systems of unemployment insurance.

There are two basic railroad retirement benefits and two additional types of benefits for which some retirees are eligible. The basic "Tier I" benefit is designed to

provide retirees the equivalent of social security benefits. The "Tier II" benefit is the equivalent of industry pension benefits for railroad workers. In addition, a modest supplemental annunity benefit is available to career railroad employees who retire with at least 25 years service; and a so-called "windfall" or dual benefit is available to workers who earned both railroad retirement benefits under railroad employment and social security benefits under non-railroad employment.

Solvency problem—In the 1981 budget reconciliation and the Economic Recovery Tax Act Congress enacted benefit and tax adjustments in railroad retirement designed to ensure the solvency of the system. Under section 22(c) of the Railroad Retirement Act as amended at that time, the Railroad Retirement Board is required to report by April 1 if it projects there are insufficient funds, including borrowing, to fully finance benefits for the next fiscal year. The Board must set forth regulations providing a pro rata reduction in pensions, preserving full social security equivalent (Tier I) benefits and paying a constant benefit each month. Pursuant to this provision, on February 18, 1983, the Board indicated that it would be required to reduce Tier II benefits by 40 percent beginning October 1, 1983, due to the projected shortfall in funds for the retirement system.

The shortfall is, in essence, due to the decline in rail employment relative to the number of retired railroad employees. Currently there are about 3 railroad retirees for each railroad employee, employment in the industry having declined from 1.2 million in 1956 to 400,000. The "best guess" employment projection made by the chief actuary for the Railroad Retirement Board shows employment declining to about 340,000 by 1989 and stabilizing at that level (Table attached).

LABOR/MANAGEMENT AGREEMENT

Early this year rail labor and management reached agreement on a suggested financing package to ensure the solvency of the railroad retirement system and shore up the railroad unemployment compensation system. This proposal, involving both benefit adjustments, tax increases, and Federal contributions, was introduced in the House as H.R. 1646 and the Senate as S. 1074. The package was modified by agreement between rail labor and management on May 25, subsequent to the action by the House Committee on Energy and Commerce reporting H.R. 1646. H.R. 1646 was significantly modified by the Ways and Means Committee and reported on July 1.

The following tables were prepared by the Office of the Actuary of the Railroad Retirement Board. These tables are self-explanatory and give some indication of the ability of the Railroad Retirement System to pay full benefits in a timely manner under two different employment assumptions. Employment under the two assumptions are shown below:

	Employment assumption (thousands)	
	Best guess	Pessimistic
Calendar year:		
1983	385	365
1984	370	350
1985	360	335
1986	355	320
1987	350	305
1988	345	290
1989–92	340	290

AMOUNT AVAILABLE FOR BENEFIT PAYMENTS UNDER H.R. 1646 AS MARKED UP BY THE HOUSE WAYS AND MEANS COMMITTEE (CONTAINS 30/60 PROVISION AS REVISED BY MAY 25, 1983, LABOR/MANAGEMENT AGREEMENT)

[Dollar amounts in millions]

Calendar year	Projected income	Projected outgo	Change in amount available for benefit payments as of December 31	Amount available for benefit payments as of December 31	Previous Column as percentage of next year's benefits
Best-guess employment levels:					
1983	$5,046	$5,397	−$533	$1,386	26
1984	7,818	5,444	80	1,466	26
1985	8,497	7,792	593	2,059	35
1986	9,120	8,027	1,061	3,075	51
1987	8,716	8,330	386	3,461	55
1988	9,102	8,674	444	3,905	60
1989	9,263	8,947	347	4,252	63
1990	9,663	9,268	406	4,658	66
1991	10,018	9,560	419	5,077	70
1992	10,404	9,852	509	5,586	NA
Pessimistic employment levels:					
1983	4,906	5,397	−720	1,199	22
1984	7,794	5,444	−56	1,143	20
1985	8,453	7,813	432	1,575	27
1986	9,004	8,142	768	2,343	39
1987	8,567	8,497	44	2,387	38
1988	8,896	8,904	−13	2,374	36
1989	9,151	9,257	−87	2,287	34
1990	9,510	9,589	−69	2,218	32
1991	9,830	9,893	−97	2,121	29

The basic provisions of the labor-management agreement are as follows:

60–30: Currently railroad employees can retire at age 60 with 30 years service and obtain full benefits. This rule would be changed so that those retiring between ages 60 and 62 would receive a flat unindexed benefit until the age of 62, at which time the benefit would be determined the same as for social security and indexed.

Disability waiting period: The disability waiting period for railroad retirement would be conformed to the five-month waiting period for social security disability benefits.

Annuity beginning date: Railroad retirement would be conformed to the limits on retroactivity for beginning annuity payments that exist under social security (in most cases 6 months before the filing of an application).

COLA deferral: The Tier I and Tier II COLA's for this year would be delayed until January 1, 1984, to parallel changes made in social security.

COLA offset: Tier I COLA's would be offset in Tier II benefits on a one-time basis up to a total 5 percent COLA.

Tier I benefit taxation: Tier I benefits would be taxed under the same rules as social security benefits, with the revenues returned to the RR fund.

Tier II benefit taxation: Tier II would be taxed as a normal retirement benefit (that part which exceeds the employee's contribution), revenue returned to the RR fund.

To conform to changes in social security, remaining benefits to post-secondary students would be phased out.

Tax increases: The Tier II taxes would be increased 1 percent for employers and .75 percent for employees for each of three years beginning July 1, 1984.

The financial interchange with social security, which transfers to the RR account the amount of social security equivalent benefits provided under railroad retirement, would be put on a current basis.

Windfall: Funds to cover full windfall benefits for the period 1974 to 1981 would be loaned from the treasury to the RR fund over three years ($1.7 billion plus interest). The loans would be repaid only if Congress appropriates funds to the RR account for that purpose.

RR unemployment insurance: The RR unemployment system would be allowed to borrow from the general treasury, and the treasury would assume existing debt from the unemployment system to RR retirement.

Ways and means modifications.—Ways and Means has modified the basic provisions of the labor-management package as reported by House Energy and Commerce, as follows:

Tier II taxes: The Tier II tax increase for 1985 and 1986 would be moved from July 1 to January 1.

Benefit taxation: Revenues from income taxation of Tier II benefits and windfall benefits would go to the RR fund only until fiscal year 1989 or when revenues from taxing Tier II reach $877 million, whichever is sooner. After that they would go to the general fund, and in 1989 revenue from taxing windfall benefits would go to the windfall benefit account.

Annualized wage base: The wage base for Tier I and Tier II would be changed from a monthly determined amount to an annual amount, effective January 1, 1985, and would increase thereafter in line with average wage growth.

RR unemployment borrowing: The RR unemployment system would not be allowed to borrow from the general treasury. RR unemployment borrowing from the railroad retirement fund could continue only through September 30, 1985.

RR unemployment tax: On January 1, 1984, the RR unemployment tax would be increased by raising the monthly wages subject to the tax from $400 to $600.

RRUC repayment tax: To reimburse the railroad retirement fund for borrowing, a "repayment" tax would be imposed on railroad companies for the period July 1, 1986, through September 30, 1990. Tax would be 2 percent of the first $7,000 in annual wages for each employee and would increase by 0.3 percent each January 1.

Sick benefits: Sick pay under railroad retirement would be subject to income tax the same as all other sick pay is taxed, for benefits received after December 31, 1983.

Unemployment committee: A committee of two representatives of rail labor and two of rail management, plus one public member, would be established to review railroad unemployment and report to Congress by April 1, 1984 with recommendations that can ensure repayment of all loans from the railroad retirement fund no later than the year 2000.

Attached is a table prepared by OMB outlining the budget impact and relative contributions of the parties under the labor/management agreement and under the modified Ways and Means reported bill.

Also attached is a more detailed discussion of the problems of the railroad unemployment compensation system.

TABLE VI—COMPARISON OF PROPOSALS

	Rail labor/ management request	House bill as modified	Rail labor/ management request (percent)	House bill as modified (percent)
Retirees:				
Early retirement	$350	$150	4	2
5 mo. DI waiting period	130	80	1	1
Tier II COLA postponed	70	60	1	1
Attribute 5 percent of tier I COLA to tier II	920	920	9	10
Tax industry pension and windfall benefits under IRC rules	650	960	7	10
Student benefit phaseout	30	30	....	....
Subtotal	2,150	2,200	22	24
Rail employees:				
2.25 percent contribution increase 1984–86	760	910	8	10
Annualize tier I wage base	....	80	....	1
Subtotal	760	990	8	11
Rail management:				
3.5 percent contribution increase 1984–86	1,130	1,250	11	13
Annualize tier I wage base security and accelerate deposits	....	280	....	3
RUI contribution increases	....	470	....	5
Subtotal	1,130	2,000	11	21

TABLE VI—COMPARISON OF PROPOSALS—Continued

	Rail labor/ management request	House bill as modified	Rail labor/ management request (percent)	House bill as modified (percent)
Federal Government:				
Windfall	2,070	2,070	21	22
UI borrowing	1,800		18	
General fund borrowing against financial interchange	2,000	2,000	20	22
Subtotal	5,870	4,070	59	44
Grand total	9,950	9,260	100	100

Railroad Unemployment Insurance System

BENEFITS AND FINANCING

Railroad workers are covered under a separate unemployment insurance system that is administered by the Railroad Retirement Board, composed of representatives for railroad labor, railroad management, and the public. Railroad workers remain the sole occupational group in the country that is not covered under the Federal-State unemployment insurance system.

Railroad employers pay contributions on the wages of employees, up to $4,800 per year. The tax can range from 0.5 percent to 8 percent depending on the solvency of the system. The tax rate is currently 8 percent. Unlike the regular State Unemployment Insurance system, there is no experience rating.

Railroad employees receive $25 per day in unemployment insurance benefits ($125 on a weekly basis). In 1975, when that amount was set, it provided railroad workers with larger benefits than almost every other unemployed worker in America. That benefit amount has not been changed since 1975, so railroad workers are eligible for benefits which are generally less than those paid most other unemployed workers.

Unemployed railroad workers do, however, generally receive benefits for a longer period of time than do other unemployed individuals. Qualified workers can receive normal benefits of up to 130 days or 26 weeks. Three groups of workers get extended benefits:

(1) Workers with at least 15 years of railroad service may get an additional 130 days or 26 weeks;

(2) workers with at least 10 but fewer than 15 years of railroad service may receive up to 65 additional days or 13 weeks; and

(3) under Public Law 98–8, the jobs bill, workers with fewer than 10 years of service may receive an additional 50 days or 10 weeks of benefits. These benefits ended on June 30, 1983. The temporary benefits were funded from the Federal Treasury, unlike the other payroll-financed railroad unemployment benefits.

BORROWING AUTHORITY

When payroll tax collections are insufficient to pay railroad unemployment benefits, the program can borrow from the railroad retirement account and repay when the Railroad Unemployment Insurance (RRUI) Trust Fund has more cash than is needed to pay benefits. Borrowing was first authorized in 1959. The program has been insolvent in 18 of the last 23 years.

Prior to 1982, the borrowing was always repaid. Beginning in 1982, borrowing increased and repayment was discontinued. At the end of fiscal year 1982, the program owed the retirement account $286 million or about 2.3 percent of total annual wages paid in the industry that year. By the end of this fiscal year; total RRUI debt to the retirement account will reach $652 million.

LEGISLATIVE PROPOSALS

The railroad management-labor agreement embodied in S. 1074 and H.R. 1646 (as introduced), deals with the insolvency of the RRUI system by (1) shifting the source of RRUI borrowing from the railroad retirement fund to the general fund of the U.S. Treasury, and (2) by authorizing the RRUI program to borrow from the Unemployment Insurance Trust Fund on the same basis as States currently borrow. Ad-

vances on RRUI would carry interest charges but would not be governed by the repayment requirements imposed on debtor States.

The Ways and Means Committee reported H.R. 1646 on July 1 with substantial changes in the RRUI provision. First, the authority for the system to borrow from the Federal Treasury was deleted. The RRUI system would be permitted to borrow from the railroad retirement account, as under current law, only until September 30, 1985. The wage base on which unemployment taxes are paid would be increased, effective January 1, 1984. The current wage base of $4,800 would be increased to $7,200 per year. Finally, effective January 1, 1984 through September 30, 1990, a "Federal repayment" tax would be imposed on railroad employers. The tax would be equal to 2.0 percent on the first $7,000 in annual wages paid to each employee. The tax would increase by 0.3 percent on each subsequent January 1, up to a maximum of 5.0 percent. These revenues would be used only to repay loans to RRUI from the railroad retirement account.

The Ways and Means Committee version of H.R. 1646 also provides for the establishment of a Railroad Unemployment Compensation Committee which would review all aspects of the railroad unemployment program and submit a report to Congress no later than April 1, 1984. The report shall contain recommendations, based on its review of the program, for adjustments in contributions and benefits to enable the RRUI program to repay all loans from the railroad retirement acccount by the year 2000.

A final provision of the Ways and Means Committee bill would increase the waiting period before payment of railroad unemployment benefits during a strike from the current 7 days to 14 days. The waiting period would apply to all workers who are unemployed due to a strike. If the strike is in violation of the Railway Labor Act, and is therefore illegal, no unemployment benefits will be paid to railroad employees participating in the strike. Workers who are not participating in an illegal strike, but who are unemployed as a result of the strike, would be subject to a 14-day waiting period before receiving benefits. Under current law, these workers are not subject to a waiting period. These changes would be effective January 1, 1984

Prepared Statement of Senator Dole

This morning the Committee has the opportunity to review the financial problems of the railroad retirement system and the railroad unemployment compensation system, and the legislation proposed for dealing with those problems. This is a matter of some urgency, because unless Congress acts the Railroad Retirement Board will implement a 40 percent reduction in so-called Tier II benefits—the industry pension equivalent—on October 1, in order to ensure that income to the system will not fall short of outgo in the next fiscal year. We owe it to the retirees, and to the railroad industry, to make sure that does not happen.

This Committee is not lacking experience with the problems of underfunded retirement benefit programs. Our major legislative achievement this year—some might say our only achievement—has been to secure passage of the social security rescue package based on the recommendations of the National Commission. That package was a balanced, bipartisan effort, requiring significant contributions from beneficiaries and workers paying into the system. It was a bill that no one was completely happy with—probably the sign of a perfect compromise.

There seems to be widespread agreement that the same approach is needed with railroad retirement. The system is in dire trouble, due to the steady decline in railroad employment while the number of retirees drawing benefits has remained high. To save the system requires firm action—to preserve basic benefits, and keep our promises to workers who have relied on the system, requires some adjustment of benefits as well as extra revenues to shore up the program. We need to do our best to approve a solvency package that will guarantee security for beneficiaries for many years ahead, not just provide a quick patch-up that will bring us back to the issue 6 months, a year, two years from now. We made adjustments in the program in 1981 that proved no more than a stopgap before facing the real problem.

PROGRESS

Fortunately, all parties to this problem have shown a willingness to work together, negotiate in good faith, and resolve differences in order to put together a workable package. Their efforts resulted yesterday afternoon in House passage of the compromise package, based on the negotiated labor-management agreement and modified by the Ways and Means Committee, that should put railroad retirement on a much sounder financial footing and guarantee basic benefits. The legislation also

addressed the severe problems of the railroad unemployment compensation system, which has also threatened to drain the retirement fund under its borrowing authority. While the bill passed by the House does not finally resolve the problems of railroad unemployment, it does deal with the problem of the potential drain on the retirement fund and set the stage for a more comprehensive solution for railroad unemployment compensation. This is real, substantial progress.

FINANCE COMMITTEE CONTRIBUTION

This Committee, like the Ways and Means Committee, is acutely sensitive to the needs to those who depend on government entitlements, and of the difficulty of finding the proper financing arrangements to put government retirement programs on a secure and sound basis. We are also keenly aware of the impact higher taxes can have on an industry that has long-term difficulties of its own. In the Senate the Committee on Labor and Human Resources is primarily responsible for the benefit structure of railroad retirement and for rail unemployment compensation. The Finance Committee is entrusted with securing financing for the system, and for governing the relationship of railroad retirement with social security and of railroad unemployment benefits with regular unemployment compensation. Each of those responsibilities of ours is involved in the House-passed legislation, which has the strong support of rail labor and management.

Everyone agrees, as I do, that our colleagues in the House have done a good job in this bill. In the normal course of things we, like the Labor Committee, would take the time to give the proposal a fresh look, since there is almost always room for improvement, and members of our Committee generally have particular concerns that warrant being addressed. In this case, however, the overwhelming desire on all sides appears to be to expedite passage of the House bill. It is a sound package; it is firmly supported by labor and management, according to letters I have received and which I will place in the record. It is endorsed by the administration, as I understand David Stockman will testify this morning. While there may be room for improvement here—and I know the administration sought, for a long time, to reduce the general taxpayer's contribution to this package even more—the looming date of October 1 seems, in this Senator's view, to justify our Committee in agreeing to facilitate swift Senate approval of the House bill without independent Committee consideration. To do otherwise puts at risk not only the well-being of beneficiaries, but their confidence in the system and the ability of Congress to manage it properly. More crisis management is the last thing we need here.

To that end, I hope members of the Senate will agree to expedited procedures on the House railroad retirement bill. If they have special concerns, there will be other opportunities to address them in separate legislation if they can make their case. To proceed in this fashion does require, of course, that our members study and understand the features of the package, the nature of the problems, and the way in which the burden of solving those problems is shared under the House bill. That is why we are here this morning, and I hope Mr. Stockman and the other witnesses we welcome today will assist us to that end—and I hope our members will agree that the case is compelling for acting now to safeguard railroad retirement. The cost is not small, but to do less would be a breach of faith with the industry, its workers, and those who worked for so many years to earn a decent retirement.

PREPARED STATEMENT OF SENATOR JOHN HEINZ

Mr. Chairman, I want to commend you for holding this hearing on what has become a dire emergency for nearly 1 million railroad retirees nationwide, of whom 82,000 are in my own State of Pennsylvania—the State with the largest number of railroad retirees in the Nation.

We are in the eleventh hour, so to speak. If Congress doesn't pass remedial legislation, the industry portion of the railroad retirement benefit, the so-called tier 2 benefit, will go down by an estimated 40 percent on October 1. And the Railroad Retirement Board is getting ready to include notices with the September 1 checks warning beneficiaries that a cut in their benefits may be imminent.

H.R. 3619, the modified labor/management package originally introduced in the House as H.R. 1646, has now passed the House. But with the Senate scheduled to adjourn at the end of this week for a 6 week recess, we in the Senate either have to pass a bill literally within a matter of hours—or we must decide to let the issue await the Senate's return in September.

In my judgment, the Senate should not adjourn and let beneficiaries begin the countdown toward the October 1 benefit cut. It is imperative that the Senate either

act affirmatively on the pending legislation or vote some other emergency authorization so that the October 1 cuts can be delayed pending Congressional action.

I think it is unfortunate that the Senate has been given so little time to evaluate the House-passed bill, which is an extremely long and complex piece of legislation, with a heavy impact on beneficiaries, on rail workers, and on the railroad industry.

But I take some consolation from the fact that the leadership of rail labor and management has been hard at work on this problem. And I want to commend them for spending more than 6 months of intensive effort, with many negotiating and renegotiating sessions, to hammer out a package that will avert the draconian benefit cuts that have been widely advertised. They have done their work well.

But I must also remind all those concerned that the railroad retirement system is a Federal program for which Members of Congress are accountable to the American people.

While I endorse this important piece of legislation, I have some concerns about certain aspects of it. In particular, I am concerned about the impact on beneficiaries of an element in the bill that causes the next 5 percent of social security cost-of-living increases to be used to reduce the retirees industry's tier 2 benefit, dollar for dollar. It may be that the economic performance of the rail industry is such that the full 5 percent offset will be needed to restore solvency to the system. But there is a chance that the second phase of this COLA offset on January, 1, 1985 will not be required if the railroad industry recovers from the recession. And I think we need to address that possibility. I am glad that we will have the opportunity this morning to hear from OMB and from the parties about the legislation we all want to see enacted as quickly as possible.

I thank the Chairman.

PREPARED STATEMENT OF SENATOR DAVID PRYOR

Mr. Chairman, as a co-sponsor of S. 1074 I am pleased the Finance Committee is today focusing its attention on legislation which assures the availability of resources to pay current and future benefits under the Railroad Retirement Act of 1974.

I am especially pleased that we are meeting only hours after the House of Representatives has overwhelmingly approved H.R. 1646. This is truly a crucial time for Senate action because this issue needs to be resolved before the August recess.

I would respectfully request, Mr. Chairman, that this Committee consider the best way to expedite action on the House passed bill—perhaps by requesting that it be held at the desk or that the committee be discharged from further consideration.

We have broad support for this legislation. The issue needs immediate attention. I hope we can get these changes enacted into law as soon as possible.

This retirement system, which is now paying benefits to approximately 1 million annuitants, will undergo a 40 percent reduction in its Tier II benefit payments unless Congress acts to improve the system's financial position.

The basic problem confronting the Railroad Retirement System is the same one which plagues the Social Security System: too few workers paying into the system in proportion to those drawing benefits. This problem has been exacerbated by the decreasing level of rail employment.

The financial stability of the Railroad Retirement System has caused great concern among railroad retirees who have contributed for many years toward their retirement only to be faced now with possible reductions.

It is my hope that the legislation to be considered by this panel this morning will provide a long term, comprehensive solution to the problems of adequately funding the Railroad Retirement System.

I look forward to hearing the testimony of our witnesses today.

The CHAIRMAN. I think while we are waiting for a couple of other Members and Mr. Stockman I will just indicate that we have the opportunity this morning to review the financial problems of the railroad retirement system and the railroad unemployment compensation system, and the legislation proposed for dealing with those problems. This is a matter of some urgency, because unless Congress acts, the Railroad Retirement Board will implement a 40-percent reduction in the so-called "tier 2" benefits, the industry pension equivalent, on October 1, in order to assure that income to the system will not fall short of outgo in the next fiscal year.

We owe it to the retirees and to the railroad industry to make certain this does not happen. This committee is not lacking experience with the problems of underfunded retirement benefit programs. Our major legislative achievement this year—some might say our only achievement—has been to secure passage of the social security rescue package based on the recommendations of the National Commission. That package was a balanced bipartisan effort requiring significant contributions from beneficiaries and workers paying into the system. It was a bill that no one was completely happy with, probably the sign of a good compromise.

There seems to be widespread agreement that the same approach is needed with railroad retirement. The system is in dire trouble due to the steady decline in railroad employment, while the number of retirees drawing benefits has remained high.

To save the system requires firm action to preserve basic benefits, and to keep our promises to workers who have relied on the system requires some adjustment of benefits as well as extra revenues to shore up the program.

We need to do our best to approve a solvency package that will guarantee security for beneficiaries for many years ahead, not just provide a quick patch-up that will bring us back to the issue in 6 months, or a year or 2 years from now.

I would just say for the record, without reading the balance of my statement, we have had all interested parties involved in this effort; as far as I am advised they have shown a willingness to work together. They have negotiated in good faith; they have resolved the differences. The final differences were, I guess, resolved in the House last night before passage with an overwhelming margin after the adoption of two or three amendments that were agreeable.

So I think it is very important. We were talking about leaving this city—or, many Members were—by Thursday at the latest this week, possibly even tomorrow. And I would hope that we could follow these hearings with action on the Senate floor and get a unanimous consent to bring the bill up without amendments, preferably, and pass it. If we fail in that, then I understand there will be a million notices to be dropped in the mail at the end of this month, to, in effect, frighten a lot of retirees around this country and play havoc with the system itself.

So we are going to do everything we can to expedite the process. As I've said, the workers, the retirees, the industry, the administration, in my view, have been in good faith, and I think they will find this committee willing to move as quickly as we can.

So it is my hope, unless there is something that I am not aware of, that we not try to tinker with the bill, make any changes, and get it out of here or at least indicate our willingness to hold the House-passed bill at the desk, bring it up, pass it, and try to do that as quickly as we can.

Senator Bradley?

Senator BRADLEY. I have no statement now.

The CHAIRMAN. I think while we are waiting for Mr. Stockman we will just go ahead with other witnesses. Let's just have the panel: Bill Dempsey, president of the Association of American Railroads; Charles Hopkins, chairman, National Railway Labor Confer-

ence; Mr. Berge, president, Brotherhood of Maintenance of Way Employees, and chairman, Railway Labor Executives' Association, accompanied by Fred Hardin and Jim Snyder.

If it's agreeable with the panel, if Mr. Stockman should arrive we will let him testify, but this will save time.

We indicated our urgency; we don't want to waste any time, so your entire statements will be made a part of the record.

I understand there are letters which should be made a part of the record from the Association of American Railroads and the Railway Labor Executives' Association in support of this bill. Then, do you want to proceed, Mr. Dempsey?

[The letters follow:]

August 1, 1983

The Honorable
Robert Dole, Chairman
Committee on Finance
U. S. Senate
Washington, D.C. 20510

Dear Senator Dole:

We are writing to express the view of the Association of American Railroads and the National Railway Labor Conference respecting H.R. 3619, the railroad retirement legislation that is to be considered by the House today and that is the subject of hearings in the Senate Finance Committee tomorrow.

The Association represents, in terms of mileage and revenues, almost all of the nation's railroads in a wide variety of matters, including legislative matters, that concern the railroad industry. The Conference represents, in terms of mileage and revenues, almost all of the nation's railroads in national collective bargaining with the unions representing their employees and in regard to other matters concerning labor-management relations in the railroad industry, including negotiations with the unions in regard to recommendations to the Congress upon proposed changes in the railroad retirement system.

Our respective Boards of Directors met last Thursday and Friday and considered this legislation. The financial burden that it will, if enacted, impose on the industry is very large indeed. That burden goes well beyond what we believe is necessary. Nevertheless, we recognize that, in view of the imminence of benefit reductions mandated by statute, it is imperative that Congress act promptly. Accordingly, we support the enactment of H.R. 3619, provided that enactment is swift and with no further changes that would further minimize the effects of the benefit modifications or further increase the costs of the rail industry.

Very truly yours,

Chairman, National Railway Labor Conference

President, Association of American Railroads

F.A. HARDIN, Chairman R. I. KILROY, Executive Secretary, Treasurer O.M. BERGE, Vice Chairman

(202) 737-1541

RLEA RAILWAY LABOR EXECUTIVES' ASSOCIATION

RAILWAY LABOR BUILDING, 400 1st ST., N. W., WASHINGTON, D. C. 20001

August 1, 1983

The Honorable Robert J. Dole, Chairman
Senate Committee on Finance
Rm. 147, Senate Hart Office Building
Washington, DC 20510

The Honorable Orrin G. Hatch, Chairman
Senate Committee on Labor & Human Resources
Rm. 135, Senate Russell Office Building
Washington, DC 20510

Dear Chairmen:

As you know, the railroad retirement system is facing a serious financial crisis that will result in drastic cuts in the benefits of over one million beneficiaries on October 1, 1983, under Section 22 of the current law, unless action is taken by the Congress to enact remedial legislation promptly.

You are also aware that representatives of railroad labor and railroad management have been working diligently for the past several months on proposed changes in the current law to improve the financial condition of the system so that such reductions would not occur. Additionally the labor-management proposal would place the railroad retirement trust fund in a solvent condition for at least the next decade.

As a result of numerous meetings with Senators, Congressmen, and their staff, the proposed labor-management legislation (H.R. 1646) has been amended by the parties as well as jurisdictional Committees of the House. As a result, additional increased costs have been imposed on both employers and employees to further insure the financial solvency of the railroad retirement system for the next several years.

While H.R. 1646 as amended differs significantly from the original H.R. 1646, primarily because of the increased tax provisions, and while there is a difference of opinion among the parties of interest over the revenue provisions, the fact remains that the legislative package does represent a substantial compromise by all parties of interest, i.e., labor-management, federal government, and railroad retirement beneficiaries.

In our judgment, the legislation certainly reflects a bi-partisan effort similar to that displayed by the partisan group responsible for the enactment of the recent Social Security legislation. While there may be certain objectionable features for each of the partisan groups, nevertheless the legislation (H.R. 1646) expected to be passed by the House of Representatives, adequately corrects the financial condition of the railroad retirement trust fund and removes the possibility of drastic annuity reductions on October 1, 1983, under Section 22 of the current law.

Accordingly, we urgently request that H.R. 1646 be passed intact immediately by the Senate to allay the fears of over one million beneficiaries of the railroad retirement system and our 400,000 active railroad employees who are deeply concerned about the future solvency of the railroad retirement trust fund.

Speaking in behalf of a large majority of the railroad labor unions, we respectfully request your support and prompt action.

Sincerely yours,

O. M. Berge, Chairman
Railroad Retirement Committee
Railway Labor Executives' Association

Fred A. Hardin, Chairman
Railway Labor Executives' Association

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, THE ASSOCIATION OF AMERICAN RAILROADS, WASHINGTON, D.C.

Mr. DEMPSEY. Mr. Chairman, thank you.

I am president of the Association of American Railroads, as you indicated, and with me is Mr. Hopkins, who is chief labor negotiator for the rail industry and is chairman of the National Railway Labor Conference. I would defer to him to describe some of the background of this matter from the railroad's point of view because he was the person who negotiated the agreement with the labor unions, but let me say that on behalf of the association representing the industry, this is not a package, as you indicated, that we are particularly happy with; but in the circumstances, because of the need for expeditious treatment of this matter, we do support it.

I was happy to hear you say that you would be inclined to move it without change, because it does impose a very large burden on the industry and, if that burden became larger, we would take a different position.

The CHAIRMAN. Mr. Hopkins?

STATEMENT OF CHARLES HOPKINS, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE, WASHINGTON, D.C.

Mr. HOPKINS. Mr. Chairman, I think under the circumstances there is really nothing that I need add to what has been said so far. Labor and management, recognizing the straits that the railroad retirement system was in, came together responsibly to rescue the railroad retirement system, compromised their differences, and forged an agreement that we were then and still are convinced did the trick. Labor and management have stayed together and adhered to their agreement throughout the proceedings on the House side.

There have been a number of changes in the package as it has worked its way through the processes in the House. A number of those are not to our liking nor to labor's liking, as they have departed in some very significant respects from the original package.

Nevertheless we recognize that the package as it now is presented to your committee and as it passed the House is the best available compromise of all of the competing interests. And in view of the urgency of the situation that confronts us all, we do support its passage and earnestly recommend that it be reported out by this committee and passed swiftly by the Senate.

The CHAIRMAN. Thank you very much.

[The prepared statements of William Dempsey and Charles Hopkins follow:]

JOINT STATEMENT OF

WILLIAM H. DEMPSEY
PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

AND

CHARLES I. HOPKINS, JR.
CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ON

THE RAILROAD RETIREMENT SOLVENCY ACT OF 1983 (S. 1074, S. 1076, H.R. 1646)

August 2, 1983

William H. Dempsey is, and since April 1, 1977 has been, the President of the Association of American Railroads. The Association represents in terms of mileage and revenues almost all of the nation's railroads in a wide variety of matters, including legislative matters, that concern the railroad industry. Charles I. Hopkins, Jr., is the Chairman of the National Railway Labor Conference, succeeding Mr. Dempsey in that position on April 1, 1977. The Conference represents in terms of mileage and revenues almost all of the nation's railroads in national collective bargaining with the unions representing their employees and in regard to other matters concerning labor-management relations in the railroad industry, including negotiations with the unions in regard to recommendations to the Congress upon proposed changes in the railroad retirement system. We are making this statement jointly, on behalf of member railroads, because of the critical importance to the railroad retirement system and thus to the railroad industry of the legislative proposals being considered by the Committee.

Our position on H.R. 3619 in sum is as follows: We would prefer legislation that more nearly approximates the labor-management agreement; that would not minimize the effects of the benefit reductions or increase the railroad cost burdens provided by that agreement. Nevertheless, the need is urgent for swift enactment of legislation to avoid drastic benefit cuts effective October 1st. We believe H.R. 3619 represents the best compromise available at this time of the several competing interests and therefore support its passage provided that can be done swiftly and without further amendment that would either diminish the benefit reductions or increase the cost to the industry.

A. Introduction

S. 1074 and H.R. 1646 as introduced in essence would implement a February 1983 railroad labor-management agreement upon joint recommendations to the Congress of a program for preserving the solvency of the railroad retirement system. S. 1076, which we understand to reflect the position when introduced of the Office of Management and Budget, incorporates some aspects of that agreement but proposes large additional tax increases and other deviations which the railroads and the unions representing their employees consider to be unnecessary or otherwise unjustified. In general, therefore, the railroads support S. 1074 and H.R. 1646 and oppose S. 1076, which are the bills with respect to which the Committee has scheduled these hearings. However, several important developments since those bills were introduced need to be taken into account.

H.R. 1646 was favorably reported on March 9, 1983 by the House Energy and Commerce Committee (H. Rept. No. 98-30, Part 1), but the bill also had been referred to the House Ways and Means Committee which has jurisdiction over its tax aspects. In an effort to accommodate some suggestions from congressional members as well as some of the concerns expressed by OMB, railroad labor and management on May 25, 1983 agreed upon additional joint recommendations to the Congress which, among other things, would increase the wage base for the contributions payable by the railroads under the Railroad Unemployment Insurance Act (and thus the amount of those contributions) by 50% and establish a committee to study the railroad unemployment insurance system and report to the Congress next year its recommendations for meeting the problems of that system.

H.R. 1646 was favorably reported on July 1, 1983 by the House Ways and Means Committee as substantially revised by that Committee (H. Rept. No. 98-30, Part 2). While some of those revisions reflected aspects of the supplemental labor-management agreement, such as the increase in the taxable wage base and the committee to study and report upon the railroad unemployment insurance system, others departed very substantially from the joint recommendations of railroad labor and management. Among other things, as so reported, H.R. 1646 substantially reduces the financial support to the railroad retirement system of subjecting Tier II benefits to federal income taxes with the proceeds being transferred to that Account by retaining those proceeds in the General Treasury after the end of fiscal year 1988 (or even sooner if an $877 million cap on the amount to be transferred to the Railroad Retirement Account was reached); imposes an additional "repayment tax" in regard to the railroad unemployment insurance system; and moves up the effective date of the increase in the wage base for RUIA contributions.

The versions of H.R. 1646 reported by those two House Committees were reconciled and combined, and other provisions were added, in H.R. 3619 which was introduced in the House on July 21, 1983. While the additional provisions (which we understand were approved by House Energy and Commerce) also reflect some aspects of the May 25, 1983 supplemental railroad labor-management agreement, others are extraneous to that agreement and could result in increases in railroad retirement benefits. Moreover, floor amendments which the House Rules Committee authorized to be offered by Representatives Florio and Pickle both reduced the savings from a restric-

tion on certain railroad retirement benefits recommended by railroad labor and management and accelerated the effective date of the first railroad retirement tax increase and of another tax provision at the expense of the railroads and their employees. Those amendments and H.R. 3619 are scheduled to be considered by the House on August 1, 1983.

In the meantime, however, another important development has occurred. When the Congress enacted the Railroad Retirement Act of 1974, it determined that the costs of phasing out certain "windfall" dual benefits should be paid from the General Treasury and authorized appropriations for that purpose. Nonetheless, a shortfall in those appropriations between the January 1, 1975 effective date of the 1974 Act and the October 1, 1981 effective date of an amendment limiting total windfall benefits payable in a fiscal year to the amounts appropriated for the payment of such benefits, had drained the Railroad Retirement Account of more than $1 billion dollars and was a principal cause of the financial problems of the railroad retirement system. A vital aspect of the railroad labor-management agreements would recompense the Railroad Retirement Account for that shortfall including loss of interest, and such a provision is included in H.R. 3619. Representative Broyhill had offered an amendment to that bill (printed at page H. 5552 of the Congressional Record for July 25, 1983) under which that shortfall would have been made up only if and to the extent that the balance in the Railroad Retirement Account at the end of a fiscal year was less than 30% of the Tier II benefits paid out during that fiscal year, and future loss of interest would not be recompensed. But during a hearing before the House Rules Committee on July 27,

1983, Representative Broyhill announced that he was withdrawing that amendment. He explained, as we understood him, that OMB and the Administration had determined that they could support H.R. 3619, if amended to include the Florio and Pickle amendments referred to above, and thus no longer insisted upon his amendment. As a result of this development, the railroads have reassessed their position in regard to the pending legislation.

We continue to believe that the joint railroad labor-management recommendations are more than adequate to resolve the financial difficulties of the railroad retirement system, in a manner that under the circumstances would fairly distribute the burden among all concerned, and also goes as far as is now justified in meeting the financial problems of the railroad unemployment insurance system pending the report next year of the Committee which would be established to study that system. Thus, we would much prefer enactment by the Congress of S. 1074 as revised to reflect the May 25, 1983 supplemental railroad labor-management agreement and to make various technical language changes most of which have been made in the relevant provisions of H.R. 1646 as reported. Nonetheless, it is important to the railroads as well as to those dependent upon the retirement and unemployment insurance system to have this matter concluded within the near future, and we recognize the significance of having the support of key members of the Congress and of the Administration. We have concluded, therefore, that we will not oppose enactment of H.R. 3619 (although we may have some technical language changes to suggest in discussions with congressional staff) if that can be done without further substantive changes placing additional burdens upon the railroads. But we will

vigorously oppose any legislation that does not fully recompense the Railroad Retirement Account for the shortfall in windfall appropriations, that further adds to the enormous tax burden imposed upon the railroads, or that makes further inroads in the savings in benefit costs contemplated by the labor-management agreements.

We explain below in more detail the developments summarized above and other relevant considerations, with particular emphasis upon the tax aspects within the jurisdiction of this Committee.

B. Background Information

The railroad retirement system for some time has been plagued by a bulge in the number of beneficiaries as compared to the number of active employees whose compensation is the subject of railroad retirement taxes. While the problems of the social security system have been attributable in large part to the decline in the ratio of active employees to beneficiaries (currently about three to one), the problem of the railroad retirement system in that regard is much more acute. The current ratio for the railroad retirement system is approximately one active worker for 2.5 beneficiaries, the reverse of the social security ratio. This has given rise to the possibility that the railroad retirement system might not have sufficient funds at times to pay full benefits, while the bulge in beneficiaries as compared to active employees is working its way through the system, even though the system is financially sound on a long-term actuarial basis.

The possibility that such a cash-balance shortage would actually occur within the relatively near future first became critical in 1981. The

Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) enacted amendments of the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.) and the Economic Recovery Tax Act of 1981 (P.L. 97-34) enacted amendments of the Railroad Retirement Tax Act (26 U.S.C. §§ 3201 et seq.) that, in tandem, were intended, among other things, to remedy that problem as it was then perceived to exist. Unfortunately, the actuarial projections made at the time concerning the anticipated effect of those 1981 amendments upon the Railroad Retirement Account have proven to be mistaken because of an unanticipated precipitous decrease in railroad employment -- from about 514,000 in July of 1981 to about 389,000 in January of 1983 -- as a result of the prolongation of the economic recession. Among other things, this has drastically decreased the amounts of railroad retirement taxes received by the Railroad Retirement Account as those taxes are applicable to the compensation paid to active employees. Consequently, the Railroad Retirement Account as early as fiscal year 1984 may have insufficient funds to pay full benefits unless further corrective action is taken.

Such a possibility is provided for in a sense by one of the 1981 amendments that added a new § 22 to the Railroad Retirement Act of 1974. In the event of a report by the Railroad Retirement Board projecting that the Railroad Retirement Account will have insufficient funds to pay full benefits throughout a future fiscal year, § 22 expressly requires representatives of railroad management and labor to "jointly, or separately, submit . . . proposals designed to preserve the solvency of the Railroad Retirement Account," and the President also is to "submit such recommendations as he may deem appropriate" in that regard. In addition, the Board

is required to issue regulations reducing Tier II benefits (those in excess of the benefits that would be paid by social security if applicable to railroad employment) insofar as necessary "because insufficient funds could preclude payment of full benefits for every month of" a fiscal year. It was contemplated, however, that benefits would be reduced only if the Congress, after considering the recommendations of railroad labor and management (and of the Administration), did not enact corrective legislation. See the Conference Report on the 1981 amendments, H. Rept. No. 97-208 (1981), Bk. 2, at 868-869, which pointed out that, among other things, "the traditional role of rail labor and management in developing proposals will be respected," and that the Congress could act even in "the event that a satisfactory agreement to restore financial balance in the Railroad Retirement Account cannot be reached . . . ."

On February 18, 1983, the Board submitted a report under § 22 which, among other things, projected a 40% reduction in Tier II railroad retirement benefits for fiscal 1984 in the absence of corrective legislation. Without awaiting but in anticipation of such a report, intensive labor-management negotiations resulted in the February 1983 agreement between the National Railway Labor Conference on behalf of member railroads and a committee of the Railway Labor Executives' Association on behalf of the standard railway labor unions. Under the agreed joint recommendations, some part would be played by each of the four distinct constituencies involved in the railroad retirement system: (1) railroad employers, (2) railroad employees, (3) beneficiaries and (4) the government. The principal burden would be shared by railroad employers and employees

through substantial increases in the already burdensome railroad retirement taxes, but substantial savings would be engendered through reductions in the future benefits that otherwise would be payable. The government's participation would be limited to making more effectual the existing provision under which the Railroad Retirement Account can borrow from the General Treasury amounts owing under the financial interchange with the social security system, in transferring the existing borrowing authority of the Railroad Unemployment Insurance Account from the Railroad Retirement Account to the General Treasury (which has long been the source of borrowing for purposes of the federal-state unemployment compensation systems), and to making good on a commitment made in 1974 under which the costs of phasing out excess or windfall dual benefits would be funded out of the General Treasury.

We will point out the significant aspects of those joint recommendations, as well as modifications that have occurred as a result of the May 25, 1983 supplemental agreement or by action in the House which had not been recommended by rail management and labor. Before doing so, however, we want to emphasize that there is every reason to believe that the program thus recommended would have resolved the financial crisis facing the railroad retirement system, in view of suggestions by Director Stockman of OMB in prior testimony that the railroad industry had not learned the lesson of the 1981 amendments and was relying upon a "best guess" as to the future course of railroad employment rather than prudently pessimistic estimates in that regard.

It is true that the projections as to the effects of the 1981 amendments turned out to be overly optimistic, although we do not believe that was because the projections were based on what everyone hoped would be true rather than upon prudent assumptions. It would hardly have been prudent even in 1981 to anticipate that the recession would be so prolonged and so deepened that railroad employment would be cut by about 25% in some 18 months, from 514,000 in July of 1981 to 389,000 in January of 1983. In any event, it is not true that railroad labor and management did not take the 1981 lesson to heart and based their joint recommendations upon "best guess" assumptions as to the future course of the economy and of railroad employment. Quite the contrary is true.

Unlike the situation in 1981, it is now apparent that the recession has bottomed out and at least a moderate recovery has commenced. In its February 18, 1983 Report under § 22,*/ the Railroad Retirement Board pointed out (page 3) that in the prior such situation (the 1974-75 recession), railroad employment increased (although not up to the pre-recession level) when the economy recovered and then held relatively steady until the current recession. If one were relying upon a "best guess," he would anticipate at least a comparable pattern with regard to railroad employment during the next decade. Such a recovery in railroad employment already has commenced, reaching 405,000 in June of 1983. Nonetheless, in a February 21, 1983 report to the Railroad Retirement Board evaluating the

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*/ That Report is reproduced as Appendix A to H. Rept. No. 98-30, Part 1, at 60-65.

financial impact of the joint railroad labor-management program,**/ the Chief Actuary of the Railroad Retirement Board utilized five employment assumptions (p. 5) every one of which assumes a continued decline in railroad employment.

Under Assumption A, which the Congressional Budget Office has deemed appropriate for use in its reports on the legislation, railroad employment would continue to decline to 345,000 by 1988 and to 340,000 in 1989-1992. The Railroad Retirement Board, in its § 22 report (pp. 3-4), utilized both Assumption A and Assumption B, which envisages a decline in railroad employment to 315,000 by 1988 and to 310,000 in 1989-1992. The three additional assumptions involve declines in railroad employment that hardly could occur in the absence of a full fledged depression or some other economic catastrophe: to 300,000 by 1988 (Assumption C), or 270,000 (Assumption D) or 245,000 (Assumption E), with a further drop to 295,000 in 1989-1992 under Assumption C and a continuation of the 270,000 or 245,000 levels for those years under Assumptions D and E.

Yet, the Chief Actuary of the Railroad Retirement Board concluded (pages 5-6 of his report) that under all of those employment assumptions -- ranging from pessimistic to catastrophic —, if the joint labor-management program was enacted without significant change, the railroad retirement system would have sufficient funds to pay full benefits through 1992 and that only under the catastrophic assumptions of Assumption E would the cash balance of the Railroad Retirement Account be so low that new corrective action might have to be taken in 1992.

**/ That Report is reproduced in Appendix D to H. Rept. No. 98-30, Part 1, at 72-77.

The drastic reduction in railroad employment resulting from the economic depression has had a devastating effect upon the financial condition of the railroad unemployment insurance system as well as the railroad retirement system. This has necessitated extensive borrowings by the Railroad Unemployment Insurance Account from the Railroad Retirement Account, under authority provided by § 10(d) of the RUIA. While § 10(d) requires such borrowings to be repaid with interest, they also contributed to the current financial problems of the railroad retirement system. The railroads have recognized and do recognize that they would have to address the problems of the railroad unemployment insurance system, but that is a complex and time-consuming task particularly since a possible option -- which has been urged by OMB -- is to terminate that system and include the railroads and their employees under the federal-state unemployment compensation systems. The railroads believe that there is merit in that approach and already are studying the matter, but working out the legislative details is not an easy task. Consequently, and in view of the fact that the Congress in § 22 had required railroad labor and management to deal immediately with the problems of the railroad retirement system, we believed that we were justified in leaving any recommendations regarding the railroad unemployment insurance system to next year.

Hence, the February 17, 1983 joint recommendations by railroad labor and management would not have affected the unemployment insurance system apart from transferring the source of its borrowing authority (including any outstanding borrowings) from the Railroad Retirement Account to the General Treasury, but leaving intact the existing requirement that

such borrowings be repaid with interest. As already noted, the May 25, 1983 supplemental agreement included, among other things, joint recommendations for a 50% increase in the taxable wage base (and thus in railroad contributions) and express statutory provision for establishment of a Commission to study the unemployment insurance system and to report thereon to the Congress next year. We also dropped our prior recommendation transferring the source of the borrowing authority, but recommended that interest owed to the Railroad Retirement Account on the outstanding borrowings be suspended until July 1, 1984. Those and other aspects of the supplemental agreement will be discussed in connection with the following more detailed explanation of the pending legislation, including the modifications made by H.R. 3619.

C. Railroad Retirement Tax Increases

The employment taxes now imposed upon the railroads and their employees by the Railroad Retirement Tax Act are very burdensome. Both the railroads and their employees pay Tier I railroad retirement taxes that automatically are equivalent to social security taxes under FICA (except for a monthly wage base that is one-twelfth of FICA's annual wage base). The railroads also pay a Tier II tax that is now 11.75% of taxable payroll and a supplemental tax -- geared to the cost of certain supplemental benefits -- that presently is 18.5 cents per hour for each employee hour for which compensation is paid, and railroad employees also pay a 2% Tier II tax rate on their taxable compensation. Nonetheless, the February 1983 agreement included joint recommendations for increasing the Tier II employer tax rate by 1% on July 1, 1984, by an additional 1% on July 1,

1985, and for years after 1985 by a further 1.5% for 12-month periods commencing July 1 as to which it is determined under a formula that the balance in the Railroad Retirement Account necessitates such additional tax revenue. Similarly, the Tier II tax rate on employees was recommended to increase by 0.75% on July 1, 1984, by another 0.75% on July 1, 1985, and by a further 0.75% on the same "if necessary" basis in years after 1985. Among other things, such tax increases would be provided by Title II of S. 1074.

Those tax recommendations were modified by the May 25, 1983 supplemental agreement to include shifting from a monthly to an annual taxable wage base effective January 1, 1987 while reducing the Tier II tax rates by 0.5% on that date to offset the effect of annualization upon the amount of railroad retirement taxes payable, and to require that the deposit of railroad retirement taxes be accelerated effective July 1, 1987 so as to accord with the schedule under which social security taxes are deposited. We did not see any real need for either of those recommendations. There is no inherent reason to prefer an annual rather than a monthly wage base, railroad retirement always has utilized a monthly base, and it was recognized that annualization of the wage base for tax purposes would necessitate annualization of creditable compensation for benefit computation purposes with a consequent increase in benefits at a time when there is a need to reduce benefits. And, under existing law, the Treasury Department has discretion to establish by regulation the deposit schedules applicable to railroad retirement taxes as well as those applicable to social security taxes. Nonetheless, in response to strong urgings by

members and staff of the Ways and Means Committee, we did agree to those supplemental recommendations. Annualization also accorded with a recommendation of OMB.

As reported by Ways and Means, H.R. 1646 increased employer Tier II tax rates by 1% effective July 1, 1984, by another 1% effective January 1, 1985, and by a third 1% effective January 1, 1986, at which time the total Tier II tax rate imposed on the railroads would be 14.75% of taxable payroll; increased employee Tier II tax rates by 0.75% on each of those dates, for a total Tier II tax rate of 4.25% on and after January 1, 1986; annualized the taxable wage base effective January 1, 1985; and required acceleration of the deposit schedules effective January 1, 1986. This departed from the railroad labor-management joint recommendations (as supplemented) by making the third Tier II tax increase permanent rather than applying only if necessary, and by moving up certain recommended effective dates. Moreover, the Pickle amendment to H.R. 3619 would move up the effective dates of the first Tier II tax increase and of the acceleration of the deposit schedules to January 1, 1984.

We fail to see anything wrong with making a tax increase intended to preserve the financial solvency of the Railroad Retirement Account contingent upon whether it is necessary for that purpose, particularly in view of the enormous employment tax burden that will be imposed upon the railroads and their employees in any event. We are also seriously disturbed by the Pickle amendment. The existing national collective bargaining agreements, which were executed in 1982 before it became apparent that further increases in railroad retirement taxes might be required, are

not subject to reopening until July 1, 1984. The railroads cannot afford what in effect will be a further increase in their labor costs during the term of those agreements, and it is grossly unfair to require them to do so at a time when those agreements are not subject to reopening and the cost of the increased taxes cannot be taken into account in agreeing upon wage increases. That is the reason why the railroads urged in negotiating the joint recommendations with the unions that no tax increases be imposed before July 1, 1984, when the collective bargaining agreements can be reopened, and this was understood and accepted by the unions.

Those concerns about the Pickle amendment are exacerbated by the fact that the asserted reason for the amendment is reduction in the savings to the Railroad Retirement Account from a benefit adjustment jointly recommended by labor and management, as a result of the Florio amendment to H.R. 3619. That recommended adjustment would affect only Tier II benefit amounts and Tier I amounts for which social security does not provide an equivalent, and which therefore are part of that aspect of railroad retirement that the Congress frequently has recognized is the counterpart of a private pension plan so that labor-management recommendations are entitled to particular weight. Unions representing the affected employees as well as management opposed the Florio and Pickle amendments, and we regard those amendments as being particularly unfortunate and unjustified.

We estimate that the railroad retirement tax increases jointly recommended by labor and management would cost the railroads between $1.849 billion and $3.009 billion in the 10-year period from 1983 to 1992, depending upon whether the "if necessary" increase goes into effect, which should

be sufficient to demonstrate the willingness of the railroads to do their part in preserving the financial solvency of the railroad retirement account. H.R. 3619 prior to the Pickle amendment would increase the estimated cost to the railroads to $3.334 billion, and the Pickle amendment would result in an estimated additional $85 million. All this would be in addition to railroad retirement taxes that already are very difficult to bear, and the Tier I portion of those taxes will increase at the same time and in equivalent amounts to the increases in social security taxes which were accelerated by the Social Security Amendments of 1983. This crushing tax burden may well cripple the ability of the railroads to participate in and contribute to the economic recovery that is now underway. We urge as strongly as we can that any further increases in railroad retirement taxes be avoided.

D. Taxing Tier II Railroad Retirement Benefits

Section 14 of the Railroad Retirement Act in terms excludes all railroad retirement benefits, except supplemental benefits, from "any tax . . . ." Notwithstanding that provision and a similar statutory exclusion of social security benefits from taxation, the Social Security Amendments of 1983 subject Tier I railroad retirement benefits and social security benefits to federal income taxes, but recognize that the resulting revenues from what in effect is a reduction in benefits should be utilized to support the payment of future benefits. Thus, the revenues from taxation of Tier I benefits are transferred to the Railroad Retirement Account and the revenues from taxation of social security benefits are transferred to the social security trust funds.

The February 17, 1983 labor-management agreement included a joint recommendation that Tier II railroad retirement benefits also be subjected to federal income taxes with the resulting revenues being transferred to the Railroad Retirement Account. This was intended as the principal contribution of existing retirees to restoring the solvency of that Account, and such a provision also is included in Title II of S. 1074. However, H.R. 1646 as reported by the Ways and Means Committee and H.R. 3619 provide that the revenues from the tax after fiscal year 1988 shall be retained by the General Treasury (except that revenues from taxation of windfall benefits are to be transferred thereafter to the Dual Benefits Payment Account), and that this shall be done even sooner if and when the revenues transferred to the Railroad Retirement Account (other than from the taxation of windfall benefits) total $877 million.

As we understand, that $877 million cap is based upon an estimate as to the amount of revenues that would be transferred through fiscal year 1988, but we note that no provision was made for transfers up to that cap after FY 1988 if the estimate turns out to be an overestimate rather than an underestimate. More importantly, other than the fact that it accords with a recommendation of OMB, we do not perceive any justifiable basis for that cap or the FY 1988 cutoff date. It must be very unusual for any one to suggest that he be subjected to additional income taxes. Unions representing the interests of railroad employees and retirees, as well as the railroads, joined in such a recommendation since existing and future retirees also should contribute a fair share to preserving the financial solvency of the Railroad Retirement Account. The revenues from the income

tax upon social security and Tier I benefits will continue to be transferred to the appropriate system after as well as before 1988 and without any cap on the amounts so transferred, and we believe that also should be done in regard to any income tax on Tier II benefits.

E. Railroad Retirement Benefit Adjustments and Technical Amendments

The February 1983 labor-management agreement includes recommendations of amendments of the Railroad Retirement Act of 1974 which, while they would not affect the amount of benefits now being paid to existing beneficiaries, could reduce future increases in those benefits as well as reducing the amount of benefits that otherwise would be payable to those retiring in the future. Provisions reflecting those recommendations are included in Title I of S. 1074, but they also have been affected by subsequent developments.

When retirement before the normal retirement age of 65 is permitted, both railroad retirement and social security generally reduce the benefit amount otherwise payable by reason of such early retirement. However, the 1974 Act now permits employees with 30 or more years of railroad service and their spouses to retire after attaining age 60 without any reduction from the benefit amount that they would be paid if they had attained age 65. These "60/30" retirement provisions have proven to be very costly to the Railroad Retirement Account, particularly since they do not have a counterpart under social security so that the increased costs of the Tier I portion are not recompensed under the financial interchange with the social security system. Railroad labor and management thus recommended that the annuities of future 60/30 retirees be reduced for early retirement

similar (although not identical) to what is now done to railroad retirees at age 62 with less than 30 years of service and to social security retirees at age 62. Other recommended benefit adjustments would offset against Tier II benefit amounts future cost-of-living increases in Tier I benefit amounts until a dollar amount equal to 5% of the Tier I benefit has been offset; adjust the timing of future cost-of-living adjustments in Tier II benefits so that they will occur at the same time as cost-of-living adjustments in social security and Tier I benefits; provide a five-months waiting period before disability benefits are payable as is now done in regard to the payment of disability benefits by social security; and conform various railroad retirement annuity beginning dates to the annuity beginning dates for social security benefits. Each of those recommended adjustments would result in savings to the Railroad Retirement Account, and thus contribute to preserving the solvency of that Account.

H.R. 1646 as reported by the House Energy and Commerce Committee contained provisions implementing each of those joint proposals. The May 25, 1983 supplemental agreement, in an effort to accommodate pressures from the Congress, included a recommendation under which the reduction in 60/30 benefits would not be applicable to individuals who qualify for such benefits by the end of 1983 and those who qualify for such benefits in 1984 would be subject to a lesser (one half) reduction even if they retire thereafter. The Florio amendment to H.R. 3619, however, goes substantially further. The effective date of the 60/30 provisions generally would be postponed from July 1, 1983 to July 1, 1984, and they would not apply to individuals who qualify prior to that date even if they retire thereafter;

and individuals who qualify after July 1, 1984 but before 1986 would be subject to only half of the reduction otherwise applicable. It was estimated that the Florio amendment would reduce the savings to the Railroad Retirement Account from the amendment as recommended by labor and management by $113 million. As we have noted (pp. 15-16 supra), that reduction in the savings that otherwise would have been made was the justification asserted for the Pickle amendment moving forward the effective dates of certain tax increases. For the reasons there stated, we do not believe either amendment is justifiable.

The other benefit adjustments referred to above would be implemented by H.R. 3619 essentially as recommended by railroad labor and management, except for provisions under which the offset of Tier I cost-of-living adjustments against monthly Tier II benefit amounts could not reduce those amounts below $10. That limitation upon the offset could reduce to some extent the savings that otherwise would be realized. More importantly, H.R. 3619 also includes provisions not recommended by railroad labor or management and not included in S. 1074, S. 1076 or H.R. 1646, which would increase benefits payable and thus further undermine the fundamental purpose of the legislation to preserve the solvency of the Railroad Retirement Account. One of those provisions would annualize the crediting of compensation for benefit computation purposes, in conformity with the provision already discussed that would annualize taxable compensation. The other such provisions would provide a Tier I benefit to parents of a deceased employee in circumstances when such a benefit would be payable by social security if applicable to railroad employment; would

eliminate an existing provision under which railroad retirement benefits based in part upon an employee's creditable military service are offset by benefits under another federal program which also are based in whole or in part upon the same military service; and would eliminate one of the existing eligibility requirements for spouse benefits.

The railroad retirement system now pays a survivor benefit to survivors (including a Tier I amount) in circumstances where a benefit would not be paid by social security as well as in circumstances where a social security benefit would be paid. When the Congress restructured the railroad retirement system in the Railroad Retirement Act of 1974, it determined not to change eligibility requirements (including those for survivor benefits) regardless of whether and how they differed from social security eligibility requirement. If that approach is to be changed, it should be done in regard to the requirements that are less rigorous as well as to those that are more rigorous than social security requirements.

We also do not see any justification for introducing what in effect would be a dual benefit based upon the same military service. Elimination of the existing restriction preventing such dual benefits will increase the cost to the railroad retirement system of crediting military service. The Congress heretofore has recognized that such costs are not attributable to railroad service and cannot fairly be imposed upon the railroad industry, and thus has authorized and made appropriations from the General Treasury to pay such costs. If the Congress eliminates the dual benefit restriction, so as to increase those costs, it also should make the

necessary appropriations (which already are authorized) to pay the increased costs.

One of the eligibility requirements for a spouse benefit is that the spouse, when applying for the benefit, be a member of the same household as the employee to whom married or that the employee contributes to the support of the spouse or is under a court order to do so. The sponsor of the proposal to eliminate that requirement (Rep. Oberstar) has asserted that while it was consistent with prior law under which a benefit was not payable to divorced spouses, it "now serves as an incentive to divorce" since a 1981 amendment under which divorced spouses can qualify for an annuity. While that is so in regard to a Tier I benefit, the 1981 amendment does not provide a Tier II benefit to divorced spouses, and any elimination of the eligibility requirement in question should similarly be limited to Tier I benefits.

Railroad labor and management recommended a number of technical amendments of the 1974 Act in order to clarify or conform various provisions of that Act in the light of amendments that were madein 1981. Those recommendations would be implemented by Secs. 104, 402-409 of S. 1074. Since those amendments are included in H.R. 3619, do not appear to be controversial and relate to matters within the jurisdiction of the Committee on Labor and Human Resources (to which they have been explained), it does not seem necessary further to discuss them here. In addition, labor-management agreed to recommend amendments that seemed appropriate to conform to the then-pending amendments of the Social Security Act. After enactment of the Social Security Amendments of 1983, our supplemental

agreement recommended amendments conforming to provisions increasing the normal retirement age (commencing in the year 2000) as to Tier I benefits and for new hires also as to Tier II benefits, and to provisions whereby the amount of uncashed benefit checks are returned by the Treasury to the appropriate Account. H.R. 3619 includes amendments implementing those recommendations, and they should be enacted by the Congress.

Our supplemental agreement also included recommendation of amendments establishing a separate account in regard to benefits equivalent to social security benefits, with the Railroad Retirement Account being limited to Tier II benefits and any Tier I benefit amounts that are not recompensed under the financial interchange with the social security system. This was done in response to urgings by members and staff of the Ways and Means Committee, and was contingent upon a persistence of those urgings after discussing the administrative inconveniences and cost that would be entailed with representatives of the Railroad Retirement Board. While in our view those amendments do not serve any significant purpose and will result in unnecessary paperwork, since they were included in H.R. 1646 as reported by Ways and Means and in H.R. 3619, we have no further objections.

H.R. 3619 also includes amendments that would subject the Railroad Retirement Board to the Inspector General Act of 1978, would authorize the Board to submit its budget requests, etc., directly to the Congress, and in terms would make creditable for Tier I benefit computation purposes under the Railroad Retirement Act of 1974 all compensation that is taxable under the Railroad Retirement Tax Act. None of those provisions was

recommended by railroad labor and management. However, we do not oppose the bill on those grounds.

F. Federal Assistance

The circumstances in which the General Treasury would be called upon to assist in meeting the financial crisis facing the Railroad Retirement Account are both limited in nature and, we believe, would be justifiable even in the absence of that crisis. The only remaining proposals would place on a current basis the Railroad Retirement Account's authority to borrow against monies owed to it under the financial interchange and would fulfill a commitment made by the Congress in 1974 to pay the costs of phasing out windfall dual benefits from the General Treasury. We will explain those proposals at some length because we want to make absolutely clear that there is no substance to assertions that sometimes have been made to the effect that they would constitute a "subsidy" to the railroad retirement system or a "raid" on the General Treasury. We note that that also is true of a third proposal to transfer the source of the borrowing authority of the Railroad Unemployment Insurance Account, but since our supplemental agreement withdrew the prior joint recommendation for such a provision (included in S. 1074 as Sec. 304) and it is not included in H.R. 3619, we need not now explain why that is so.

Borrowing by the Railroad Retirement Account. Section 15(b) of the 1974 Act as amended in 1981 authorizes the Railroad Retirement Account to borrow from the General Treasury amounts needed for the payment of benefits, subject to a limitation that the total amount of such borrowings "outstanding . . . at any time during any fiscal year shall not exceed the

total amount of money" estimated to be payable to the Railroad Retirement Account by the social security trust funds "with respect to such fiscal year," and such borrowings are to be repaid with interest not "later than 10 days after a transfer to the Railroad Retirement Account" pursuant to the financial interchange. In accordance with a joint labor-management recommendation, Sec. 301 of S. 1074 would restructure that borrowing authority so that monthly advances would be made by the General Treasury to the Railroad Retirement Account, measured by the monthly amounts owing to the Railroad Retirement Account under the financial interchange, and the outstanding advances would continue to be repaid with interest upon receipt by the Railroad Retirement Account from the social security trust funds of the amounts owed under the financial interchange. Such a provision is included in H.R. 3619 and should be enacted.

The need for such borrowing authority fundamentally arises because the social security system does not pay the amounts owing to the railroad retirement system under the financial interchange on a current basis, but rather after an average delay of about 15 months. The interchange is accomplished on a fiscal year basis, but the determination of the net amount to be transferred need not be made, under § 7(c)(2) of the 1974 Act, until "June 15 following the close of the fiscal year." While that delay does not affect the long-term financial condition of the Railroad Retirement Account, as interest is paid, the delay in payment (and the distortion caused by payment for an entire fiscal year at one time in June of the following fiscal year) has exacerbated the Account's cash-flow

problems that give rise to the danger that funds will be insufficient in some months to pay full benefits.

The 1981 amendment attempted to meet that problem, but it contains an ambiguity or inconsistency which has undermined its effectiveness. While the limit on total borrowings for a fiscal year is the amount estimated to be transferred under the financial interchange "with respect to that fiscal year," repayment of outstanding borrowings is required not less than 10 days after a transfer under the financial interchange, although in fact such a transfer is of the amounts owing for the prior fiscal year rather than for the current fiscal year. We understand that, as those conflicting provisions have been construed and applied, the Railroad Retirement Account has not been able to borrow against amounts currently owing under the financial interchange for periods of up to several months.

We emphasize that this proposed amendment would simply permit the Railroad Retirement Account to borrow on a current basis what is in effect its own money and the General Treasury would be fully secured against loss by the requirement that interest be paid and that outstanding borrowings with accumulated interest be repaid after receipt by the Railroad Retirement Account of amounts owed to it under the financial interchange. Thus, while this proposal will contribute to easing the short-term financial problems of the Railroad Retirement Account, it will do so without any true cost to the General Treasury or anyone else.

Windfall appropriations. The Railroad Retirement Act of 1974 restructured the railroad retirement system so as to avoid future accruals

of excess or "windfall" dual benefits by individuals who qualify for benefits under both the railroad retirement and social security systems. While those excess dual benefits resulted from nonrailroad employment and the nature of the social security benefit formula, their entire costs were borne by the railroad retirement system through the workings of the financial interchange with social security. By 1974, the Railroad Retirement Account already had been drained of "in excess of $4 billion" by payment of those costs, which were the primary reason for the actuarial deficit (7.72% of the 9.05% of taxable payroll) which then threatened the system with bankruptcy. See H. Rept. No. 93-1345 and S. Rept. No. 93-1163 (1974), at 1-2, 7-8.

The Congress agreed with the Commission on Railroad Retirement (established in 1970 by 84 Stat. 792) that those windfall benefits were inequitable as well as costly, and the Congress also agreed "that any plan to eliminate these dual benefits should include protection of the equities of existing beneficiaries and employees with claims upon such benefits." Id. at 11. In general, therefore, under the 1974 Act existing retirees as of the January 1, 1975 effective date continue to receive any windfall amount to which entitled as of that date, and unretired employees who by that date (or by the end of the year in which they left railroad service, if earlier) had sufficient railroad and non-railroad service to qualify for benefits under both systems receive upon retirement a windfall amount based upon such pre-1975 service. See id. at 11-13.

This gave rise to the question of who should pay the costs of phasing out those preserved windfall benefits. "It would be unfair to the

railroad industry to saddle the carriers" with those costs as they "had no part in the creation of the current situation." Id. at 4. The excess benefits were attributable to "non-railroad employment . . . which has not benefitted the railroad industry in any fashion" and to the social-security benefit formula "over which the railroad industry has no control," and the "railroads [had] consistently opposed" prior legislation repealing "restrictions" on such benefits. Ibid. Moreover, payment of those costs through the imposition of additional taxes upon the carriers would be "more inflationary in its effects than the provisions of the bill as reported." Id. at 6. So, too, "it would be unfair to impose additional taxes upon current and future employees" since they "will not (except where vested rights are involved) be permitted to receive" such benefits (H. Rept. No. 93-1345 at 4), and "more than half of the long range cost of putting the overall system in actuarial balance under this bill is accomplished through significant reductions in benefits payable to future retirees" (S. Rept. No. 93-1163 at 4).

The solution which the Congress adopted almost unanimously was to pay those phasing-out costs through appropriations from the General Treasury. The problem had been exacerbated by "Congressional action (1) liberalizing benefit eligibility under the Social Security system and (2) repealing restrictions upon dual benefits contained in the Railroad Retirement Act," and a "precedent exists for this approach" in legislation authorizing appropriations to pay the costs of crediting military service under the social security and railroad retirement systems. H. Rept. No. 93-1345 and S. Rept. No. 93-1163 at 4-5. Thus, § 15(d) of the 1974 Act

authorized appropriations from the General Treasury to the Railroad Retirement Account "for each fiscal year, beginning with the fiscal year ending June 30, 1976, such sums as the [Railroad Retirement] Board determines to be necessary on a level basis to pay before the end of fiscal year 2000" the total costs of the preserved windfall dual benefits (including loss of interest, as reduced by increased interest earned by the Railroad Retirement Account resulting from a change in investment policy enacted by § 15(e) of the 1974 Act).

The method thus established for paying the costs of phasing out windfall benefits was found to have two serious defects which contributed substantially to cash-flow problems encountered by the Railroad Retirement Account. While the appropriations were authorized to be made on a level basis over a 25-year period, because of the larger number of beneficiaries in earlier as compared to later years, even the full amount of the authorized appropriations would have been insufficient in those early years, and in fact the Congress failed to appropriate the full amount authorized. This resulted in a severe drain upon the balance in the Railroad Retirement Account. That problem was remedied as to the future by 1981 amendments to §§ 7(c) and 15(d) of the 1974 Act (effective October 1, 1981), which established a separate Dual Benefits Payments Account and limited the total amount of windfall benefits payable during a fiscal year to the amount appropriated to that account out of the General Treasury for that fiscal year. The 1981 legislation did not, however, remedy the problem for the Railroad Retirement Account caused by the fact that prior appropriations had been insufficient to pay the full costs of windfall

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benefits paid out of that Account prior to October 1, 1981. That shortfall in appropriations, including loss of the interest that would have been earned by the Account, now amounts to over $1.7 billion.

Section 401(a)(3) of S. 1074 would make up for that shortfall in prior appropriations by three advances from the General Treasury to the Railroad Retirement Account (which would not be repaid until money is appropriated for that purpose, as would be authorized): On July 1, 1984, on July 1, 1985 and on the first July 1 after 1986 of which the "if necessary" tax increase discussed above was imposed. If the third increase in railroad retirement taxes is made permanent, rather than contingent upon necessity, as would be done by H.R. 3619, the contingency in regard to the third installment of the windfall appropriations will be obsolete. Moreover, in their May 25, 1983 supplemental agreement, railroad labor and management made clear that their recommendations included and are contingent upon elimination of the contingency in regard to the third installment of the windfall appropriations, so that the shortfall assuredly would be fully recompensed. That has been done in H.R. 3619 and should be done by the Congress.

All the reasons that led the Congress to conclude, almost unanimously, in 1974 that the costs of paying preserved windfall benefits should be funded through appropriations from the General Treasury support enactment of this proposal, which in effect would simply fulfill the commitment then made by the Congress to the railroad industry and railroad retirement beneficiaries. It is still true that it would be unfair to impose any of those costs upon the railroads, who were not benefitted in

any fashion by the non-railroad employment that gave rise to windfall benefits, or upon existing railroad employees who for the most part will not be entitled to even a preserved windfall benefit upon retirement. It is still true that the windfall benefit problem was created by legislation, adopted in large measure over the opposition of the railroads, and the shortfall since 1974 has resulted from the failure to appropriate the full amount necessary to fund the preserved windfall benefits paid out of the Railroad Retirement Account in the 1975-1981 period.

Moreover, as the congressional committees noted in reporting the bill enacted as the 1974 Act, the Railroad Retirement Account -- and thus the railroad industry -- already had absorbed a loss of more than $4 billion in the payment of windfall benefits. That loss has not been recompensed through appropriations from the General Treasury or otherwise, and would not be recompensed under the proposed legislation. It would be grossly inequitable to penalize even further the railroad industry by failing to carry out fully the promise made by the Congress in enacting the 1974 Act that the full cost of paying the windfall benefits preserved by that Act would be funded from the General Treasury. In addition, the transfer as provided in the bill of funds sufficient to cover the shortfall would be a tremendous aid towards overcoming the cash-flow crisis facing the Railroad Retirement Account without the necessity of either unbearable increases in railroad retirement taxes or harsh reductions in railroad retirement benefits.

G. Railroad Unemployment Insurance

We have already explained why we believed that legislation in regard to the railroad unemployment insurance system appropriately could and should be postponed to next year, despite the financial difficulties of that system, so the February 1983 labor-management agreement did not contain any recommendations for legislation in regard to that system other than a transfer of the source of its borrowing authority. We have also noted that the supplemental agreement dropped the recommendation for transfer of the source of the system's borrowing authority, but recommended certain other amendments to the Railroad Unemployment Insurance Act.

The railroads now pay contributions or taxes, under § 8 of the RUIA, at the maximum rate of 8% of taxable compensation. Taxable compensation is $400 a month which is generally equivalent to $4800 a year. One of the joint recommendations would increase taxable compensation by 50% to $600 per month (equivalent to $7200 per year), effective July 1, 1984, thus in effect increasing by 50% the contributions payable by the railroads. In addition, the RUIA now provides for the payment of unemployment compensation to railroad employees who are on strike if the strike is lawful, and to other railroad employees who are idled by a strike (whether legal or illegal), subject in most instances to a seven-day waiting period. Another joint recommendation would extend that waiting period to 14 days and eliminate an existing exception, effective July 1, 1984.

Those joint recommendations are intended to reduce the drain upon the Railroad Retirement Account of borrowings by the Railroad Unemployment Insurance Account while a third joint recommendation is being imple-

mented. That third recommendation would establish upon enactment a committee (consisting of two labor members, two management members, and a public member) to review all aspects of the railroad unemployment insurance system, including a possible transfer of railroad unemployment compensation to the federal/state systems applicable to other industries and the necessary transition procedures, and report thereon with recommendations to the Congress by July 1, 1984. This would permit legislation to be considered next year that would fully deal with the problems of the system with the benefit of the thorough investigation of all possibilities and recommendations that the proposed committee would provide.

H.R. 3619 (in accordance with H.R. 1646 as reported by the Ways and Means Committee) does contain provisions increasing the tax base by 50% to $600 per month, together with necessary conforming amendments of other provisions of the RUIA; increasing the waiting period for strike benefits from 7 to 14 days and eliminating the existing exception; and establishing the proposed committee to investigate and report to the Congress. However, the effective dates of the provisions regarding the increase in the tax base and the waiting period would be moved to January 1, 1984, rather than July 1, 1984 as recommended; and the committee would be directed to submit its report to the Congress by April 1, 1984 rather than by July 1, 1984. We are particularly disturbed by the January 1, 1984 effective date for the increase in the taxable wage base, for the same reasons that we are disturbed by the January 1, 1984 effective date in H.R. 3619 for the first increase in Tier II railroad retirement taxes. Both would impose substantial additional labor costs upon the railroads during the terms of

existing collective bargaining agreements, while the July 1, 1984 effective date jointly recommended by railroad labor and management would coincide with the reopening of the existing collective agreements and thus facilitate consideration of the effect of the tax increases upon the railroads' labor costs in arriving at new collective agreements.

We are even more disturbed by a so-called Railroad Unemployment Repayment Tax that would be imposed upon the railroads by H.R. 3619. That tax would be imposed at the rate of 2% of taxable compensation from July 1 to December 31, 1986, which rate would be increased by 0.3% on January 1, 1987 and by an additional 0.3% on each succeeding January 1 (subject to a 5% cap), until the tax expires on September 30, 1990. The taxable wage base would not be the one utilized for purposes of railroad contributions under the RUIA, but rather would be a $7,000 annual base under the definition of taxable wages in the Federal Unemployment Tax Act as adapted to apply to the railroads. The proceeds from the tax would be appropriated to the Railroad Retirement Account for application against the amounts borrowed from that Account by the Railroad Unemployment Insurance Account, until those borrowings have been repaid with interest, after which the proceeds would be appropriated to the Railroad Unemployment Insurance Account.

If such a tax is enacted, we do not perceive why the $7,000 annual wage base should not apply to "compensation" as defined in the RUIA rather than to "wages" as defined in FUTA, so that the railroads would not be forced to construct another taxable payroll under statutory definitions that are not now familiar to them. However, we would much prefer that no such tax be enacted. By thus placing on the books a tax that will not

commence to apply until more than a year after the report of the committee to be established is due to be submitted to the Congress, the contents of that report might well be influenced. Certainly, the enactment now of such a future railroad unemployment tax is hardly consistent with a transfer of railroad unemployment to the federal/state systems, as OMB and others have urged and which the committee would be directed to consider. If the committee should recommend enactment of a "repayment tax," that could be done following its report and before July 1, 1986. So, too, a provision in H.R. 3619 that would terminate as of October 1, 1985 the existing borrowing authority of the Railroad Unemployment Insurance Account could affect the study committee, and could better have been left to legislation after the report of that committee.

We estimate that the recommended 50% increase in the RUIA tax base, if made effective July 1, 1984, in itself would increase the RUIA contributions payable by the railroads through 1992 by some $675 million, and moving the effective date to January 1, 1984 as would be done by H.R. 3619 would increase that total to some $713 million. The so-called repayment tax would add an estimated $307 million, for an estimated total of $1.17 billion. If such RUIA tax increases are added to the railroad retirement tax increases included in H.R. 3619, the total estimated additional tax burden imposed on the railroads through 1992 would come to some $4.354 billion. That truly is a staggering amount to impose upon an industry that for years has been in financial difficulties, and that only now is beginning to recover from the effects of the economic recession.

We note that H.R. 3619 contains a provision which would subject sickness benefits payable under the RUIA (other than for on-the-job injuries) to federal income taxation, with all proceeds being retained in the General Treasury. That provision was not recommended by railroad labor or management and is not contained in S. 1074, S. 1076 or H.R. 1646 as introduced.

H. Conclusion

Our experience with this legislative matter thus far has been disheartening. The threatened 40% reduction in Tier II benefits under § 22 of the 1974 Act would not itself impact upon the railroads. Nonetheless, we took seriously the direction in § 22 that we attempt to reach agreement with the unions upon joint recommendations for new legislation preserving the solvency of the Railroad Retirement Account. We did agree upon recommendations which, while sharing the burden fairly among all interested parties, would impose large railroad retirement tax increases upon the railroads. We purposely had that program tested under employment assumptions that ranged from pessimistic to catastropic, all of which projected a continuing decline rather than the increase reasonably to be expected in the event of a recovery from the economic recession which in fact is now occurring, and were assured that it would preserve the financial solvency of the Account for the foreseeable future. Despite our reluctance to take on further costs under the railroad unemployment insurance system until the problems of that system and potential solutions could be thoroughly analyzed, we agreed to a 50% increase in the contributions payable by the railroads while a proposed committee is engaging in that

analysis and preparing a report next year to the Congress. Yet, we have been unfairly accused of relying upon "best guesses" and of seeking "subsidies," and the House in H.R. 3619 has eroded the shares that the joint recommendations would impose on others while increasing the burden that would be imposed on the railroads.

We much prefer that the joint recommendations agreed to by labor and management on February 17, 1983 as supplemented by their May 25, 1983 agreement be enacted intact. We have concluded, however, not to oppose enactment of H.R. 3619 if not further changed in a manner detrimental to the interests of the railroads. We adamantly oppose any proposal that would further add to the tax burden imposed upon the railroads, or restrict the rectification of the shortfall in windfall appropriations, or further reduce the anticipated savings to the Railroad Retirement Account from benefit adjustments, or further reduce the support provided by the tax on Tier II benefits. We appreciate the opportunity to express these views to the Committee.

The CHAIRMAN. Thank you very much.

David Stockman is here. You are part of this compromise, why don't you pull up a chair there, Dave? It's all one big happy panel here for a change. [Laughter.]

It might be a first. [Laughter.]

I wonder if we might hear from Mr. Stockman. I have indicated, Dave, that we are going to move as quickly as we can. As I understand from my telephone conversation yesterday, unless there is something that happens in the House before passage, the administration does support this, and you want us to try to move it out before the recess.

We are pleased to have you here this morning to, I assume, express your support of the compromise, and your entire statement will be made a part of the record. If there is anything you would like to highlight, we would be happy to hear that.

STATEMENT OF THE HONORABLE DAVID A. STOCKMAN, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C.

Mr. STOCKMAN. Thank you, Mr. Chairman. I will put the statement in the record.

I didn't hear everything that has been said, but it is my impression that all of the parties involved have come to the conclusion that, with the time having run out and there being an urgent need for action before the recess so that we can avoid a very undesirable

situation of having to send notices to beneficiaries around Labor Day or before, that we have reached the point where we have the best achievable legislation.

We have not a perfect but a good compromise. We have a bill that does address the solvency problem and improves solvency in a major way over the next 6 years. We have a bill that does provide some structural reforms that will according to the RRB actuary, hopefully avoid the need to get back to this in a year or two. But most importantly we have a bill that can assure that rail pensions will be paid on October 1.

So for all of those reasons, recognizing that we have some problems, and perhaps others at this table do, as well, we have come to the conclusion that this is the best legislation we can achieve given the time constraints, and we would urge the committee to report it out as passed by the House. We would urge that it be approved by the Senate this week so that it can be sent to the President for signature before the recess.

The CHAIRMAN. It is my hope if we finish the hearing by 11:30 to go to the Chairmen's meeting and ask Senator Baker to try to squeeze this in between the two filibusters and the Interior appropriation bill, and the bailout of Whoops, and a few other things that are pending.

Are there any technical amendments? Have you had a chance to review the House-passed bill?

Mr. STOCKMAN. Yes, I have. There are probably a lot of technical amendments that some people would desire, but I think none of them are important enough or significant enough or urgent enough that it would be desirable to change the legislation and require a conference for further House action.

So our recommendation this morning is that the committee endeavor to approve this legislation as passed by the House.

I might also say, Mr. Chairman, that as I sit here with my colleagues and collaborators and allies on this issue, that we had differences of opinion as we went along. But I want to say that I am very encouraged and pleased that people were willing to make adjustments and they were willing to listen to some of the problems that we saw in the bill, and that other members of Congress saw.

It may have been a difficult process, and it may have been hard at times, but I think as a result of undertaking this effort and debate over the last 4 or 5 months, we now have a good bill. And I especially appreciate what the labor members who were involved and what the industry members who were involved have done to make this a solid bill so that I can recommend to you that you go ahead and adopt it as is.

As you know, when I last appeared before the Senate I had problems with it, but I think those have been substantially resolved.

The CHAIRMAN. The proposed solvency package does impose a significantly higher tax burden on the rail industry. As I understand from testimony from the industry itself, although those burdens are substantial, they are willing to go along with it. There has been some concern expressed that these increases will cause particularly severe problems for some of the smaller, shorter line railroads. I guess maybe I should ask that question of each of you, but is this going to present a problem?

I know there are some Senators—at least my intelligence tells me—who are concerned about that. But having that information, which I assume you have, does this package still have the support of the industry as well as the administration?

Mr. DEMPSEY. Mr. Chairman, the association and the conference represent some 95 percent of the industry in terms of revenue and mileage. So, speaking for that part of the industry, this will impose a very, very heavy burden on us. At the same time, labor has agreed to significant reductions in benefits, and so they have shared this burden. We are just going to have to find some way to live with it.

Now I must say that we don't speak for every railroad in the country and for a number of short lines—you mention short-line railroads. So the burden will be significant for them as well.

But as Mr. Stockman said, we really don't see any alternative to passing this package as it stands. And, representing our clients, we will find some way to deal with it.

Mr. STOCKMAN. Mr. Chairman, I think the issue that is being raised by some members of the committee, and it is an important one, regards the commuter railroads. Obviously it is going to be as difficult for them as it is for other members of the industry. This is a heavy burden. This is a difficult package.

But this is a multiemployer industry pension plan, and it has to treat everybody equally. Whether you retire from a commuter railroad or any other railroad, you are eligible for the benefits provided in the existing railroad retirement system, and those pensions have to be financed.

What I would like to suggest to you and to other members of the committee who might be concerned about these small commuter railroads is that we are providing $70 million this year in direct Federal subsidies to assist them with this very type of problem—high costs and the desire to have these railroads become financially independent as the result of the divestiture from Conrail. And if there needs to be any solution, we ought to look at it in terms of the adequacy of the Federal subsidy this year and next year rather than trying to amend this legislation and provide special treatment for the commuter lines through the railroad retirement system.

The CHAIRMAN. I just have one additional question, although I may reserve the right to submit other questions at a later date.

A number of the Members of Congress have expressed strong reservations in the past about the Treasury loans authorized in this legislation to pay the balance of the so-called windfall payments for the period 1974 through 1981. And I guess, whatever you call it, we are putting general revenues into the system over a 3-year period. I am certain the administration is aware of that. Are you now willing to live with this provision? Or is there anything on the horizon that would minimize contributions from the taxpayers to this system—general taxpayers?

Mr. STOCKMAN. Well, Mr. Chairman, that was one of the issues I raised when I was here previously. I will note that the rail sector's share of this $9 billion solvency package that we have is now up to 56 percent, far higher than the two-fifths or so in the original legislation. I consider that major constructive progress. Maybe you would like to have more, but that is a pretty adequate and pretty

defensible contribution. And that is coming from retirees who will have their COLA's postponed; it's coming from those who will be affected by the early-retirement reform; and it's coming from employees and management who will contribute more to their industry pensions. And in light of those contributions—solving their own problem—while we may still have philosophical arguments about whether it is a windfall benefit or a dual benefit that's owed or not owed, I think the time for that has passed. And with the increased contribution in this final legislation of nearly $1 billion, in fact, slightly more from the sector, we are not going to press that case.

The CHAIRMAN. Senator Bradley?

Senator BRADLEY. Mr. Chairman——

The CHAIRMAN. What you might do is address questions to Mr. Stockman, and then he can be excused.

Senator BRADLEY. All right.

In the bill there is some question about how this compromise might affect commuter rail agencies recently separated from Conrail. What I wondered is, does it make any sense to Mr. Stockman that we have at least a year to study the issue of how it would affect commuter rail agencies? In other words, don't roll back but at least propose and add to the package a study so that we can see if indeed there is a problem for commuter rail agencies.

Mr. STOCKMAN. Mr. Bradley, if we were under ordinary legislative circumstances where we had another month or two where the Senate might come up with some amendments that could be sent back to the House and this could be worked through, I think you might be on a possible acceptable route. But I don't think we have that time now; we only have a few legislative hours left.

I would note that the increased taxes——

The CHAIRMAN. What we might do—I was just thinking out loud--we could probably get the study without amending the bill.

Mr. STOCKMAN. Yes.

I would note that the increased taxes in this bill, though, are staged in over 3 years. So the immediate effect in 1984 isn't prohibitive.

Second, that we do have the subsidy mechanism that we could deal with some of that problem through.

Third, under the terms of the bill there will be a recommendation from labor and management for long-term rail SI and UI reform next spring. So the Congress will be addressing the issue in some legislative approach fairly soon, and if an independent study, which we could obviously launch, showed that something special had to be done with the commuter railroads, it could be addressed then.

Senator BRADLEY. Well, I think the timing of the deliberations on the UI might really make the study appropriate; because, if we commence the study now or in the near term, it might be ready with some results by the time we consider the whole UI question next year. So I think that might be a way we could go, and I'm pleased that you recognize that.

Thank you.

The CHAIRMAN. Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman. I came over this morning for a real good old-fashioned scrap and a battle here, and

it's just wonderful to see all the mysteries and intrigues of our process being focused upon and worked out.

I did want to add my support, Mr. Chairman, to H.R. 1646 and I have a statement I would like to insert in the record.

One comment that I don't know has been made this morning, or one area of discussion, is the possibility of holding S. 1074 at the desk and discharging this committee from further responsibility. That may have been discussed earlier.

The CHAIRMAN. That's what we hope to do.

Senator PRYOR. But I strongly support the taking up of the House bill, 1646, and just hope that we can do that before the recess.

The CHAIRMAN. Thank you, Senator.

Senator Long?

Senator LONG. No questions.

The CHAIRMAN. Unless you have something else, Mr. Stockman, we would be glad to—not "glad to"—excuse you, but if you are finished——

Mr. STOCKMAN. Well, Mr. Chairman, with your permission I will leave while I'm ahead. Thank you.

The CHAIRMAN. But if you would indicate, Dave, to the leadership that we would like to schedule this yet this week, if you could indicate that to Mr. Duberstein and others who will be at the chairmen's meeting later this morning and also to Senator Byrd on the Democratic side, it seems to me that Senators Byrd and Baker could get together and we could roll this through fairly quickly.

Mr. STOCKMAN. Mr. Chairman, we will do that, and we will also commit to go ahead on the study of the commuter rail lines so that we wouldn't have to add legislative language to the bill.

Senator BRADLEY. With a specific report date.

The CHAIRMAN. Right. What is the date you want?

Senator BRADLEY. Early 1984.

Mr. STOCKMAN. Senator Bradley, if we could have the same date as in the legislation, due April 1?

Senator BRADLEY. And this will relate to the railroad retirement and also to the unemployment insurance question?

Mr. STOCKMAN. That's correct.

The CHAIRMAN. Thank you very much.

Now we will come back to our panel.

[The prepared statement of Hon. David A. Stockman follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

TESTIMONY OF DAVID A. STOCKMAN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE SENATE FINANCE COMMITTEE
ON RAILROAD RETIREMENT AND RAILROAD UNEMPLOYMENT INSURANCE

August 2, 1983

Mr. Chairman, and Members of the committee, I wish to thank you for inviting the Administration to testify on proposals to resolve the acute financial crises facing the railroad retirement and railroad unemployment insurance systems. I am pleased to report that since I testified on this issue before the Senate Labor and Human Resources Committee last spring, substantial progress has been made toward developing an acceptable resolution to the serious problems facing these two systems of vital importance to the rail sector.

Mr. Chairman, the monthly checks of one million railroad retirees are in jeopardy. I strongly urge you, the members of this Committee, and the rest of the Senate to enact H.R. 1646 as passed by the House. If the Senate acts before the recess, we can avoid the the worry and confusion rail pensioners will face when they receive notice on September 1 of the pending 40% cut in rail industry pensions. As an administrative matter, Mr. Chairman, these notices would have to be mailed before the end of August.

The railroad retirement and railroad unemployment insurance systems -- and their financial solvency -- are of vital importance to one million former rail employees, their families and survivors, to about 80,000 rail UI beneficiaries and their families, and to the 400,000 active rail employees. The financial problems facing these systems are serious -- and the gap between income and outgo is large in each instance. Only by taking quick legislative action and enacting the House bill into law can we assure continued payment of full rail pensions, which this Administration strongly supports.

Substantial Progress

Mr. Chairman, we have come a long way since H.R. 1646 was first introduced last spring. Let me now summarize for you what I think are the major improvements in this bill over the original rail labor/management request of last February.

- This bill does not ask the taxpayer to assume any open-ended, unrepayable loans.

- The drain on the rail pension fund caused by rail UI borrowing has been limited -- without asking the general taxpayer to assume the burden.

- By beginning to close the tremendous gap between income and outgo, by establishing a process for debt repayment, and by requiring consideration of structural reforms, the House bill puts us on the road to reform of the rail UI system.

- Provisions in this bill begin the process of conforming rail sector treatment to that of all other employers under social security.

- According to the Railroad Retirement Board's actuary, this package will -- under prudent assumptions -- ensure the financial health of the rail pension at least until the end of this decade.

- This package does not balance the budget on the back of the rail sector, nor does it saddle the general taxpayer with an unacceptable expansion of the budget deficit. As a result of significant compromise on the part of all parties involved, and a primary reliance on rail sector contributions to fund their industry pension, this bill would have little effect on the deficit.

Mr. Chairman, this bill also clarifies the role and responsibilities of the parties for the financing of their industry pension, and the Federal role in the protection of social security benefits. The provisions in this bill for separate social security and industry pension funds and for an Inspector General at the Railroad Retirement Board will add a large measure of accountability to this unique system, while safeguarding social security benefits.

Beginning to Restore Rail UI Solvency

When I testified before the Senate Labor and Human Resources Committee on H.R. 1646, I pointed out that the bill failed to address a chronic, structural financial crisis in rail UI. Subsequently, the Congressional Research Service has confirmed this finding, pointing out that the rail UI system "is insolvent and has been for 18 of the last 23 years".

Mr. Chairman, I think it is important for you and the members of this committee to realize that we have not solved the rail UI funding crisis -- we have only stemmed the tide of rail UI borrowing from the rail pension fund. The fifty percent contribution increase agreed to by rail labor and management still will not cover outgo for unemployment benefits, sickness benefits, debt service, and administration. Nor have we guaranteed that the rail UI fund's debt to the rail pension fund will be fully repaid. But we have come a long way from the open-ended general fund bail-out proposed by the parties last February, and we have started down the road to real reform.

This bill would require rail labor and management to report to the Congress by April of 1984 their recommendations for reforms that will ensure the long-term solvency of rail UI, and a plan that will ensure the full repayment of rail UI debt to the rail pension fund. While I still firmly believe that my original

proposal for structural reform of rail UI is a sound -- and perhaps the only viable long-term -- prescription, I trust that the parties will act responsibly in considering alternatives for reform. We understand that in the unfortunate -- and, I trust, unlikely -- event the parties do not devise a responsible plan, the Ways and Means Committee indicated they would take the necessary steps to ensure that all debt is repayed and that real reforms are instituted.

Rail Pension Financing

When rail labor and management first negotiated and proposed a "solution" to the railroad retirement financing crisis, I strongly objected to the reliance on general fund loans to provide 59% of the "savings" claimed for the package, and I supported the need for a more balanced, equitable package. Senator Hatch introduced S. 1076, which embodies the proposals presented in my earlier testimony.

Since then, the parties reached a new agreement, which imposed some additional rail sector pension and rail UI contributions. The Ways and Means Committee then built upon the parties agreement, and the result is the bill before you today. I think it is important to note -- one can see this from Table I -- that the result has been a 58% increase in the rail labor and managements contribution to the financ[illegible]ckage.

Table I
Comparison of Proposals 1/

	FY84-88 Amount ($ in millions)		Share of Total (%)	
	Rail Labor/ Management Request	House Bill	Rail Labor/ Management Request	House Bill
Retirees:				
Early retirement reform 2/	350	150	4%	2%
5 month DI waiting period	130	80	1%	1%
Tier II COLA postponed	70	60	1%	1%
Attribute 5% of Tier I Cola to Tier II	920	920	9%	10%
Tax industry pension and windfall benefits under IRC rules	650	960	7%	10%
Student benefit phase-out	30	30	--	--
SUBTOTAL	2,130	2,200	22%	24%
Rail Employees				
2.25% contribution increase 84-86	760	910	8%	7%
Annualize Tier I wage base	---	80	---	3%
SUBTOTAL	760	990	8%	11%
Rail Management				
3.5% contribution increase 84-86 3/	1,130	1,250	11%	13%
Annualize Tier I wage base security and and accelerate deposits	---	280	---	3%
RUI contribution increases and debt repayment	---	470	---	5%
SUBTOTAL	1,130	2,000	11%	21%
Rail Sector Total, Retirees, Employees, Management	4,020	5,190	41%	56%
Federal Government				
Windfall	2,070	2,070	21%	22%
UI borrowing	1,800	---	18%	---
General fund borrowing against financial interchange 2/	2,000	2,000	20%	22%
SUBTOTAL	5,870	4,070	59%	44%
GRAND TOTAL	$9,950	$9,260	100%	100%

1/ Pricing based on CBO estimates except where noted.
2/ Based on RRB estimate.
3/ Includes effect of annualizing Tier II wage base.

For the most part, the Ways and Means Committee's addition to revenue in the package came from conforming the treatment of rail pension contributions to that of all other employers under social security. Nevertheless, this is real money, and a real increase in contributions, that should not go unnoticed.

Under the House bill, railroad employers would begin depositing their pension contributions on the same schedule as all other employers; railroad employees and employers would begin their pension contribution increases at the beginning of each calendar year, just as all employers under social security; railroad retirees would have their rail industry pensions subject to Federal income tax, just as all other persons receiving private pensions; and both railroad employees and employers would pay their pension contributions on an annual wage base instead of a monthly one, just as all other employers under social security.

On the Federal side of the coin, the share of the solution coming from the Treasury has declined from 59% to 44%, as Table II shows. This is still a far larger Federal share than the Administration would like, but in the context of the need for immediate action to assure timely payment of full benefits to one million pensioners, it is one we can live with.

Table II
Sharing The Burden To
Resolve Rail Pension Crisis

% of Savings from	S.1076	Labor Management Request	House Bill
Intra-budgetary	27%	59%	44%
New contributions or savings from public	73%	41%	56%

An important sign of the improvement in this bill can be seen in Table III, which shows the effect of the bill on the budget deficit. This bill would have very little effect on the deficit over the next five years, an indication that the package is not unduly harsh on the Federal taxpayer. And, as I mentioned earlier, tne package does not seek to balance the Federal budget on the back of the rail sector.

Table III
Comparison of Unified Budget Effect, FY83-88

	Labor/Management Request	House Bill
Railroad Retirement:		
Increased Revenue (-).....	-2,540	-3,950
Decreased Outlays (-).....	-1,500	-1,290
Previously Unfinanced Benefits (+)	+5,270	+5,270
Net Change in Deficit.....	+1,230	+30
Unemployment Insurance:		
Increased Revenue (-).....	0	-470
Increased Outlays (+).....	0	0
Increased Sickness Benefits (+) 1/	50	50
Net Change in Deficit	+50	-420
Total Deficit Change, Unified Budget	+1,310	-390

1/ Offset associated with DI waiting period proposal.
2/ Includes increase in RUI contribution and debt repayment tax.

While the share of the burden borne by rail employees and employers has increased from 19% to 32%, the beneficiaries' participation in attaining solvency has been held relatively constant at 24%. In fact, the House bill revised the early retirement reform provision so that it would phase-in over the next three years, providing for more equity in the package than simple percentages can demonstrate.

Perhaps most importantly, the RRB actuary's analysis indicates that the rail pension program would remain soundly funded through at least the end of the decade. Table IV shows the RRB's estimates of rail industry pension balances as a percent of outgo. Under prudent assumptions, RRB estimates the rail industry pension fund would have a balance of 89% of outgo in 1989.

Table IV
Rail Pension Reserves Under House Bill 1/
($ in millions)

	1984	1985	1986	1987	1988	1989
"Best Guess":						
Balance.....	935	1,159	2,162	3,234	3,638	4,057
% of Outgo.....	46	56	101	145	158	170
Prudent:						
Balance.....	642	617	1,312	2,055	2,097	2,115
% of Outgo.....	32	30	61	92	91	89
Pessimistic:						
Balance.....	603	394	781	1,156	769	324
% of Outgo.....	30	19	36	52	33	14

1/ Estimates by RRB.

In evaluating the sufficiency of this package, I strongly urge the Senate to adopt the same approach that was used to gauge the adequacy of the social security package -- namely, focus on the adequacy of reserves under prudent, or even pessimistic assumptions. When dealing with the pensions of one million retirees, we must use prudent assumptions designed to insure against risks, and ensure that adequate funds will be available to pay benefits.

Compromise

Mr. Chairman, this is not a perfect bill -- it is a compromise, a reconciliation of differences with a common concern for the need to assure timely payment of full rail pensions. It is not a perfect compromise either, but, given the need for expeditious action, it is acceptable to the Administration. There are many improvements that could be made, but the time is just not available.

This bill envisions a $4 billion increase in borrowing, but specifically limits it to that level -- even that, I am sure you will agree Mr. Chairman, is nonetheless a substantial amount of money. I also believe it is wholly inappropriate to reopen the 1981 windfall agreement by requesting $2.1 billion in borrowing for an alleged past underfunding -- but the need for immediate action is so great that we would not oppose these provisions.

As the Director of OMB, I find the provision mandating that the Railroad Retirement Board submit its budget to the Congress and the President particularly undesirable, both from a Constitutional -- separation of powers -- as well as a good management perspective. But again, we will not oppose this provision because of the need for expeditious action.

Mr. Chairman, you may hear complaints from some that they do not like this provision or that provision, and that maybe we could just modify the bill a little bit. That is the nature of a compromise -- no one likes giving up something, even to achieve a more important goal. Mr. Chairman, I strongly urge you to reject these overtures and enact the bill as passed by the House, because the wolf is at the rail pensioners' door, and there is no more the time to seek further improvement.

STATEMENT OF FRED A. HARDIN, PRESIDENT, UNITED TRANSPORTATION UNION AND CHAIRMAN OF THE RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. HARDIN. Mr. Chairman, I am Fred A. Hardin, chairman of the railway labor unions.

First of all, we want to thank you and your committee for their interest in resolving this dispute.

I will say, before Mr. Stockman leaves the room, we had a very erroneous interpretation of him. We thought he was rather cold; but he is a good man of great compassion, and we appreciate his——

The CHAIRMAN. David? Just a perception problem. [Laughter.]

Mr. HARDIN. We just thought he'd been mad when these hearings first began. [Laughter.]

As to the passage, I want to reiterate what has been said. We all made sacrifices. Our retired people have made sacrifices; our employees are going to pay far more taxes and with reduced benefits. I think we have all made great concessions in it.

As far as the commuter lines, I would like to say that during the transition of the commuter lines from Conrail over to the commuter authorities and Amtrak, we made considerable concessions there. I know that they feel that the railroad retirement additional taxes might be a burden, but we've already taken care of some of their burden—we made very valuable concessions in wages and in work rules. However, we are very willing to go into any kind of study, and we appreciate this Senate committee's interest in expediting this thing because our people are very worried.

Thank you very much.

The CHAIRMAN. Your entire statement will be made a part of the record.

STATEMENT OF OLE M. BERGE, PRESIDENT, BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES, AND CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION COMMITTEE ON RAILROAD RETIREMENT

Mr. BERGE. Mr. Chairman, thank you for the opportunity to appear before your committee.

In hearing the testimony of others, I realize that what I was prepared to say would just be repetitious. It has been a very difficult period for labor and management, as Mr. Hardin and everybody has said. We made some very difficult sacrifices; but, in retrospect, it seems that the difficult time we have gone through getting to this point has been worthwhile.

The Railroad Retirement Board chief actuary has told us that, if adopted by the Congress and enacted into law, H.R. 1646 as amended would provide a viable railroad retirement system at least until 1992 and probably into the indefinite future.

The three major items are the savings realized by benefit adjustments, the taxes on the employers and the employees, and the Federal participation. They are each essential to the maintenance of a viable fund. The items are mutually dependent upon one another and their enactment as a package is essential.

The provisions of H.R. 1646 would increase taxes on the employers and the employees, as I have said, and for the first time would place a tax on tier two.

So, in sum, the bill passed by the House last night represents the only feasible solution to the immediate problem confronting us.

Thank you very much.

[The prepared statement of Ole M. Berge follows:]

BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

STATEMENT OF OLE M. BERGE, CHAIRMAN,
COMMITTEE ON RAILROAD RETIREMENT SYSTEM,
RAILWAY LABOR EXECUTIVES' ASSOCIATION

AUGUST 2, 1983

My name is Ole M. Berge. I am President of the Brotherhood of Maintenance of Way Employes and Chairman of the Committee on Railroad Retirement of the Railway Labor Executives' Association or RLEA. I speak today in favor of H.R. 1646, as amended, as the only feasible solution to the threatened collapse of the railroad retirement system.

The Railway Labor Executives' Association is an unincorporated association with which are affiliated the chief executive officers of all of the standard national and international railway labor unions in the United States. The organizations whose chief executive officers are members of the RLEA are listed below:

American Railway & Airway Supervisors Association, Division of BRAC
American Train Dispatchers Association
Brotherhood of Locomotive Engineers
Brotherhood of Maintenance of Way Employes
Brotherhood of Railroad Signalmen
Brotherhood Railway Carmen of the United States and Canada
Brotherhood of Railway, Airline & Steamship Clerks
Hotel & Restaurant Employees and Bartenders International Union
International Association of Machinists & Aerospace Workers

International Brotherhood of Boilermakers & Blacksmiths
International Brotherhood of Electrical Workers
International Brotherhood of Firemen & Oilers
International Longshoremen's Association
International Organization of Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Railroad Yardmasters of America
Sheet Metal Workers' International Association
Seafarers International Union of North America
Transport Workers Union of America
United Transportation Union

This nation's Railroad Retirement system antedated its Social Security System. In fact, the original Social Security Act based its tax benefit separation scheme on that developed in the 1935 Railroad Retirement Act. There are today some 1,000,000 persons receiving benefits under the Act, many of whom devoted their working lives to the railroad industry in large part because of the existence of the Retirement Act. Everyone of the persons actively employed in the industry today began his or her railroad career protected by the provisions of that Act.

A federal retirement act became necessary in 1934 for many reasons: The pension system of the railroad industry was ineffective and chaotic; the vast interconnected interstate operations of the very many railroads servicing the 48 states in 1934 made necessary a single uniform pension system fair to all railroad employees. Unlike the Canadian railroad retirement system which is privately maintained by the only two railroads in that country, the American railroad retirement system in 1934 consisted of separate retirement plans with a number of different unions on each of very many railroads then operating in the

United States. Employees who left the service of one carrier for employment with another lost their pension credits; the qualification requirements were so high that few, if any, employees ever saw a pension check (an analysis of railroad pension benefits for the years 1925 to 1928 showed that only 17% of employees in the railroad industry would ever receive a pension - ranging from a low of about 8% for maintenance employees to about 30% for train and engine service employees); the amounts of the pensions were much too small (25% were less than $30 per month; the average was $54 per month; 2.6% exceeded $100 per month); and they were reduced beginning in 1932 by amounts ranging from 10% to 40%.

This Congress and the Supreme Court of the United States have recognized that the efficiency and effectiveness of our vital rail transportation system suffers through loss of employee morale when the demands of justice are ignored. The Congress realized the validity of that principle in 1934 and enacted the Railroad Retirement Act of 1934, which, after failing the test of constitutionality, was re-enacted in 1935 and has been an integral and very significant part of every railroad employee's life since that time.

The problems which had occurred over the years were virtually all corrected by the 1981 amendments. In 1954, over the objections of the entire membership of the Railroad Retirement Board and most of the railway labor organizations including my own organization, the Congress eliminated the so-called "dual benefit" restriction thereby allowing employees who

qualified for both railroad retirement and social security benefits to receive the full benefits of both. This allowed those employees to take advantage twice of the benefit formula "weighting" favoring lower income individuals. The result was that these people got a higher social security level benefit than persons with the same amount of total employment, all of which was performed under one system or the other. For example, a person receiving $112 from both systems under the "dual benefit" restriction would receive about $139 per month upon repeal of that restriction. In 1954, it was estimated that repeal would place an unwarranted long-term burden upon the railroad retirement system of $385 million. However, with the onset of inflation, that drain became substantially greater. The unfunded portion of the payment was a direct drain on the Railroad Retirement Trust Fund.

In 1974, the Congress removed the provisions for dual-benefit for the future but provided that it had to be phased out through those in whom it had equitably vested. The 1974 Act authorized appropriations from general revenues for the phase-out of dual benefits. The amounts authorized were to be sufficient to fund on a level payment basis over the years 1976-2000, the dual benefit for new accruals and for beneficiaries on the rolls. The annual amount was to be reviewed every 3 years at the time of each actuarial valuation. The first three transfers were $250 million each, the fourth and fifth were $313 million each, and the sixth was $350 million. However, the cost of the phase-out program was substantially more than the amount estimated and

very substantially more than the funds appropriated. The result has been devastating to the Retirement Trust Fund. Because the Fund made up the difference between the amount appropriated for dual benefits and the actual cost of those benefits, it is now about $1.8 billion poorer than it should be. Obviously, for such a drain to continue would utterly destroy the Railroad Retirement System. And we believe it to be most significant that no employee who spent his entire working life in the railroad industry has received one cent of dual benefits and yet his pension is now threatened by the huge unreimbursed withdrawals from the Trust Fund to pay those benefits.

In 1981 the Congress enacted amendments to the Railroad Retirement Act which eliminated any real basis of opposition to the system's continuation as a federal institution. Those amendments isolated the dual benefit obligation into a separate account to be paid out of general revenues with authority in the Board to reduce that benefit if Congress decided not to honor the commitment it made in 1954 when it lifted the dual-benefit restriction. Indeed, the Congress did not provide sufficient funds to pay full dual benefits and the Board had to reduce that portion of the pensions to retirees by 15% for FY 82.

In addition, the employee tax was raised 2% over the social security tax and the tax on railroads was increased by 2 1/4% which with other adjustments in the formula limited the then existing program deficit and financed an improved formula for Tier II benefits and extended cost of living increases on the Tier II benefits.

Shortly after the enactment of the 1981 amendments, an event intervened which destroyed their curative effects upon the System: the recession. In July 1981, some 514,000 persons were actively engaged in employment in the railroad industry. By January 1983, that number had dwindled to 388,000: a twenty-five percent reduction! No economic or financial arrangement of any kind can survive when its revenue base unpredictably shrinks by 25% in 18 months.

Adding to the burden of this enormous loss in revenue are the withdrawals from the Trust Fund on a loan basis to pay unemployment benefits to the tens of thousands of employees furloughed over the past 18 months. This now amounts to about $650 million and, of course, increases each day. In addition, the Fund has suffered the $1.8 billion drain which I mentioned a moment ago as a result of the failure of the Congress to provide sufficient funds to pay the "dual benefits" which Congress had agreed to do. And finally, the monies owed the Fund by Social Security are not available when and in the amounts they should be thereby inflicting an insuperable cash flow problem upon the Fund.

The combination of those factors confronts the Railroad Retirement System with immediate and complete collapse unless remedial action is swiftly taken.

Pursuant to its duty under Section 22 as appended to the Act in 1981, the Railroad Retirement Board has formally informed the President of the United States, the Speaker of the House and the President of the Senate that on October 1, 1983, all retirees'

Tier II benefits will be reduced by 40% and this cut will rise to 80% by October 1, 1984.

Confronted with this disaster, Chairman James J. Florio of the House Subcommittee on Commerce, Transportation and Tourism,, together with Mr. Norman F. Lent, the ranking minority member of that Subcommittee, wrote to the representatives of rail management and rail labor emphasizing "the critical importance of a prompt agreement between labor and management to deal with this serious situation" and urging "that such an agreement on joint recommendations be submitted to Congress by March 1, 1983."

We accepted that suggestion, met with management and after intensive, arduous negotiations, agreed upon recommended legislation, which while none of us like it, will avoid the imminent disaster facing us.

The recommendations embrace three major categories:

1) Selective adjustments in benefits to produce the greatest savings to the Trust Fund while having the least effects upon the beneficiaries of the Fund;

2) An increase in taxes upon both employees and carriers; and,

3) A return to the Trust Fund of the depletions caused by the underfunding of "dual benefits" and unemployment insurance payments; and, permitting the Trust Fund to obtain monies owed it by Social Security on a current basis.

The elements of this agreement were included in H.R. 1646 introduced by Chairman Florio and the RLEA by a vote of its twenty members, with 3 dissents, supports that bill.

As I said a moment ago, none of us like the agreement; we would have preferred to effect no change in benefit or tax levels but it was simply not in the cards. We did what we felt was the very best we could with a very bad set of circumstances.

The Railroad Retirement Board actuaries have informed us that if adopted by the Congress and enacted into law, the agreed recommendations would provide a viable Railroad Retirement System at least until 1992 and probably into the indefinite future. The report of the Congressional Budget Office reprinted in the Energy and Commerce Committee Report on H.R. 1646 would seem to confirm this conclusion. The three major items (savings, taxes, and federal participation) are each essential to the maintenance of a viable Fund. The items are mutually dependent and their enactment as a package is essential to a successful avoidance of the disaster which is about to befall all railroad retirees and beneficiaries. The elimination of any element would cripple the efforts which have been made. All participants (retirees, employees and management) will be called upon to sacrifice as a result of this plan. We sincerely urge the Congress to join with them and insure that this plan succeeds by returning to the Retirement Trust Fund the monies owed it and which are vital to its existence.

We again emphasize that while the Railroad Retirement System is included in the Federal budget the monies expended in benefits are obtained through tax revenues from the industry only, with the exception of the "dual benefits". Considered as a federal budget item, the reductions in benefits and increases in taxes

should improve "the budget picture" while actually not affecting the Federal Government's income or expense in a real sense. The federal participation sought by these recommendations consists primarily of monies which have been drained from the Fund for the payment of "dual benefits" or which are owed to the Fund by Social Security, together with borrowing for unemployment insurance payments which, in principle, is the funding source for virtually all unemployment insurance payments in the country today.

The provisions of H.R. 1646 would increase taxes on employers, employees and, for the first time would place a tax on Tier II benefits. Each of the amounts realized from these taxes would be placed in the Retirement Trust Fund.

The employers would be taxed an additional 1% on January 1, 1984; a further 1% on January 1, 1985; and, a final 1.5% on January 1, 1986. These tax increases on employers could reach 3.5% of taxable payroll in addition to the present 11.75% of taxable payroll. Both the employers and employees continue to pay the Tier I tax which is equivalent to the Social Security Tax and which continues to increase.

The employees' tax increases under H.R. 1646 would be .75% on January 1, 1984; .75% on January 1, 1985; and, .75% on January 1, 1986. This is an increase to 4.25% of taxable payroll and, as I stated a moment ago, is in addition to the Tier I tax that is equivalent to the tax paid under Social Security.

The revenues from the new tax on Tier II would be placed in the Trust Fund through 1988; thereafter, they would go to the General Fund.

The total revenues and savings realized from the taxes and benefit adjustments between 1983 and 1988, according to Railroad Retirement Board data, would be $4.953 billion.

More importantly, the trend line established in the CBO Report between 1983 and 1988 strongly indicates that following 1988 the Fund will begin to show a surplus if H.R. 1646, as amended, is enacted. In order to establish a viable system, however, it is absolutely essential for the Government to return to the Account those monies drained from it by the "dual benefit" provisions of some $1.8 billion. H.R. 1646 would repay those funds. The Administration, through OMB Director Stockman, has submitted its "solution" to the current crisis in the form of S. 1076. This proposal would have the effect of freezing benefits for up to ten years. It would also raise taxes excessively. And it ignores any Government obligation to repay to the Fund monies drained by the "dual benefit" payments. Finally, it initiates other changes which would begin the process of converting the system into a pension system. I noted above the failure of railroad private pension systems as the cause for the original enactment of our existing system.

While the railroad unemployment insurance system has performed very satisfactorily for many years, the recent depression in the rail industry has exposed weaknesses in the system. Among the weaknesses is the heavy drain it places on the retirement system at the same time that system is suffering from a shrinking revenue base.

The representatives of Labor and Management recognize that the railroad unemployment insurance system represents a serious

and vexing problem that must be addressed and resolved and they have agreed to do so. It was not addressed during the negotiations on the railroad retirement modifications simply because there was insufficient time to devote to that very complex matter and also reach a reasonable solution to the railroad retirement emergency. The parties did agree to commence working on that problem as soon as the retirement problem was resolved. However, as a result of actions of the House Ways and Means Committee this problem has been addressed and resolved.

We are convinced that H.R. 1646 solves the problems confronting the railroad retirement system at least until 1992 and very probably well into the 21st Century.

Thank you.

The CHAIRMAN. Thank you very much.
Are there other members of the panel?

STATEMENT OF JAMES R. SNYDER, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION COMMITTEE ON LEGISLATION, WASHINGTON, D.C.

Mr. SNYDER. Mr. Chairman, I am Jim Snyder, legislative chairman of the Railroad Labor Executives' Association.

I have nothing to say, but on behalf of the railroad workers in this country and the members of our organization I want to thank the Senate committees—the Finance Committee, the Committee on Labor of Senator Hatch's, the staff people. A lot of hard work was put into this in the last 6 months, in all kinds of weather and with all kinds of hours, and all.

I think under the circumstances we have about as fair a bill that could be gotten, and I personally want to thank all the staff people and the Senators who participated in it.

Thank you very much.

The CHAIRMAN. Senator Bradley?

Senator BRADLEY. No questions.

The CHAIRMAN. Senator Pryor?

Senator PRYOR. No questions, Mr. Chairman.

I just have a comment about Mr. Snyder. I think in terms of the railroad and the railroad workers and their problems and contributions, I think this is a long time in coming and it needs to be accomplished in this session.

The CHAIRMAN. Senator Long?

Senator LONG. No questions, Mr. Chairman.

The CHAIRMAN. I would just ask a general question so that we can underscore the urgency of what we need to do: If Congress fails to complete action on this legislation before the August recess,

what risk does that pose to the industry and to the retirees receiving benefits?

I think the second part of that question is: Is it necessary that we act now to maintain this consensus? I don't know how fragile this is, but if we postpone it 6 or 8 weeks somebody may decide it is not a very good package.

So I think, first of all, if you could just restate for the record the need for us to act quickly, and, second, what might happen if we don't, it might be helpful to urge our colleagues to take this bill up.

I will start with Mr. Dempsey, or whoever.

Mr. DEMPSEY. Yes.

You, of course, have indicated what happens in the way of notices going out to all of our beneficiaries. It would create a terrible morale problem and a disappointment of expectations.

The CHAIRMAN. How many would go out? Is it about a half-million? A million?

Mr. DEMPSEY. A million notices.

The CHAIRMAN. By the end of this month?

Mr. DEMPSEY. Yes, sir. And that's the kind of disturbance that we just haven't experienced in the past, and it's one that we certainly think has to be avoided.

So far as the fragility of the agreement is concerned, I think that's an excellent point. As I indicated at the start, we are prepared to support this bill as it stands; but, with any changes, that support certainly could not be counted upon, and I expect labor may feel the same.

Mr. HARDIN. Mr. Chairman, speaking for the retirees and the employees, we have them tempered to bite the bullet now. And if we don't get it passed right away, I'm afraid there are going to be thousands more of letters written wanting to make improvements in it.

So I think all of the members, the official members, of the Railroad Retirement Board are in the room, as far as any legal or technical problem; but speaking for the employees and the workers, it would be much more to us if it were passed now before they have the chance to find something wrong with it. We think it's a good bill, but——

The CHAIRMAN. Jim, you agree with that, I assume.

Mr. SNYDER. Sure, I wholeheartedly agree with that, Mr. Chairman.

The CHAIRMAN. I am certain all of us have experienced, when we have gone back to our States, the frustration, and the fear, I must say, that a lot of railroad retirees in particular have expressed to me, and I'm certain to Senator Long and to Senator Bradley and others, that they really don't know what is going to happen if we don't act, and they are faced with that "40-percent reduction in benefits" which is not a very attractive prospect for anyone.

Mr. SNYDER. Mr. Chairman, Fred Hardin and myself have had seminars all over the country, all sections of the country, with all sections of the railroad, with large attendance—400 and 500 people. This package has been thoroughly discussed from the beginning right on up, and the biggest complaint we have about the package is to save our pension; don't let the 40 percent go into effect, and save our pension. And this is what we have attempted to do.

Senator BRADLEY. Mr. Chairman?

Could I ask the two gentlemen, do you intend to communicate this package to your membership?

Mr. HARDIN. Do we intend to communicate it?

Senator BRADLEY. Yes.

Mr. HARDIN. Certainly. I'm running for reelection in 2 weeks. [Laughter.]

Senator BRADLEY. Good. That's just the kind of information I wanted to hear.

Mr. BERGE. In response to your question, Senator, I have kept my membership apprised of what was going on on a continuing basis, and I have only had one letter in opposition from probably 80,000 members, in opposition to the legislation. And, as Mr. Hardin said, they realize that sacrifices had to be made, and they are prepared to make them at this time.

The CHAIRMAN. Would you be kind enough to mention our names as you do that? [Laughter.]

Well, we appreciate it. Your entire statements will be made a part of the record.

I am certain Senator Long will be helpful, and I'm certain you will be in touch with other leaders on both sides. If there is consent, we can get it up and get it out very quickly.

Thank you.

Mr. DEMPSEY. Thank you very much.

The CHAIRMAN. We have one additional witness, Mr. Lloyd Duxbury, president of the Railroad Retirement Association.

[Pause.]

The CHAIRMAN. Mr. Duxbury, you may proceed. Your entire statement will be made a part of the record.

STATEMENT OF LLOYD DUXBURY, PRESIDENT, THE RAILROAD RETIREMENT ASSOCIATION, WASHINGTON, D.C.

Mr. DUXBURY. Thank you, Mr. Chairman.

I am pleased to be here on behalf of the members of this association, and I am here today to speak for current retirees and the surviving widows and husbands of deceased retirees and deceased railroad workers.

Because of the fast track which we are on I would like to limit my oral presentation to one aspect of the legislation and that is the provision in section 102 which provides for a tier 1 COLA offset against the tier 2 benefit.

What that section does, in effect, is to reduce the tier 2 benefits of all current retirees by an amount equal to 5 percent of their tier 1 benefits. It is drawn in such a way that it applies only to current retirees, does not apply to any future retirees.

In the House, in their late action on the bill, the House put a floor of $10 on that cut, so that under the bill as passed by the House last night, no current retiree or widow or surviving husband can have the tier 2 benefit cut below $10.

Now, prior to putting the $10 floor this provision would have eliminated many tier 2 benefits entirely for the rest of the life of the beneficiary. The proof of the pudding lies in the fact that it is said that the $10 floor will cost the fund $3 million per year. Well,

that $10 a person for 300,000 would produce $3 million. But certainly, under the provision, some of them would be cut to $1 or $2 or $5 or $6. So with the $10 floor, the amount added is not 10 but less. So there must be many, many more than 300,000 people who are so affected.

All you have to do is look at the figures of the Railroad Retirement Board on monthly benefits under tier 2. Forty-five percent of current beneficiaries receive less than $100 per month in tier 2 benefits.

I submit, Mr. Chairman, that this provision is grossly unfair to current retirees and to the surviving husbands and especially widows of deceased railroad workers, because percentage wise it hits them the hardest, those who are least able to pay and to suffer the loss.

There has been much emphasis made on the 40-percent cut threat in October by the Board under section 22, added in 1981. It is important to remember that there would have been no threat of a cut in October but for the close to $500 million debt to the railroad retirement fund because of railroad unemployment insurance. If that money had been in the fund and the debt had not been there, the Board would not have had to threaten a cut in October.

Now, the bill would provide for a committee to study various aspects of railroad unemployment insurance, including the repayment of the debt for the railroad retirement fund.

Strangely enough, the bill says that the railroads will have until the year 2000 to pay its debt to the railroad retirement fund. And yet, under this bill they would extract from current retirees $1.6 billion in benefits over a 10-year period.

Because of the time limitations and what is involved in trying to get this bill passed, Mr. Chairman, on behalf of current retirees and beneficiaries I would recommend that study be given to this issue before this extraction is made from current retirees, because many retirees are fooled today by what they have been told. They have been told that there will be a 40-percent cut in October unless this bill is passed and that under this bill they will receive no cut.

But once this bill is passed as it now is, many of them will have a cut as high as 80 percent, or perhaps even higher. And those will be the people least able to afford it, primarily the widow.

So I don't want to change the taxes on the railroads—I might double it. But I don't want to do that, because nobody wants to hurt the railroads financially. Certainly retirees don't. But I believe this issue should be studied further, and I would be satisfied to have the Railroad Retirement Board make a report to the Congress by the date in 1984 when the unemployment compensation committee makes the report, and have the Railroad Retirement Board make a report as to whether there should be any extractions from current retirees in this bill, and if so how much, and if so the fair formula for promoting it.

If you have any questions, gentlemen, I shall be happy to respond.

[The prepared statement of Lloyd Duxbury follows:]

STATEMENT OF LLOYD DUXBURY, PRESIDENT

THE RAILROAD RETIREMENT ASSOCIATION

BEFORE

THE COMMITTEE ON FINANCE

THE UNITED STATES SENATE

AUGUST 2, 1983

MY NAME IS LLOYD DUXBURY. I AM PRESIDENT OF THE RAILROAD RETIREMENT ASSOCIATION, AN INDIVIDUAL MEMBERSHIP ASSOCIATION ORGANIZED AS A NON-PROFIT CORPORATION, WITHOUT CAPITAL STOCK, UNDER THE CODE OF THE DISTRICT OF COLUMBIA, WITH THE MEMBERS HOLDING THE FULL VOTING POWER IN THE ASSOCIATION. THE ASSOCIATION IS NOT IN ANY WAY AFFILIATED WITH, NOR DOES IT REPRESENT,ANY ELEMENT OF ORGANIZED RAIL LABOR NOR ANY ELEMENT OF RAIL MANAGEMENT. IT IS INTENTIONALLY ORGANIZED, STRUCTURED AND DESIGNED TO BE GOVERNED BY AND FOR, AND TO SERVE THE INTERESTS OF, ONLY RAILROAD RETIREES, THEIR SPOUSES AND DEPENDENT SURVIVORS.THE FIRST MEMBERS JOINED IN LATE SEPTEMBER OF LAST YEAR. THE MEMBERSHIP NOW EXCEEDS 11,000 AND ADDITIONAL MEMBERS ARE JOINING PRACTICALLY EVERY DAY. PRESENT MEMBERSHIP INCLUDES RESIDENTS OF EVERY STATE IN THE UNION. THERE ARE MEMBERS FROM THE RETIREMENT ROLLS OF ALL OF THE MAJOR RAIL UNIONS, MEMBERS FROM THE LARGE GROUP OF " EXEMPT " AND " NON-CONTRACT " EMPLOYEES OF RAILROADS; THEY ARE FROM ALL RAILROADS,INCLUDING THOSE INVOLVED IN MERGERS IN RECENT YEARS AND NOW PART OF A LARGER RAIL SYSTEM. THERE ARE MANY SURVIVING HUSBANDS AND SURVIVING WIVES OF DECEASED RAILROAD WORKERS ON THE MEMBERSHIP ROSTER OF THE ASSOCIATION. MEMBERSHIP IS OPEN TO ALL WHO HAVE ACQUIRED A RIGHT TO BENEFITS UNDER THE RAILROAD RETIREMENT ACT.I APPEAR HERE TODAY TO SPEAK ON BEHALF OF CURRENT RETIREES UNDER THE RAILROAD RETIREMENT ACT,THOSE RAILROAD WIDOWS AND WIDOWERS WHO ARE DEPENDENT ON THE SYSTEM AND THOSE RAILROAD WORKERS WITH VESTED RIGHTS IN THE SYSTEM WHO ACCEPTED AN EMPLOYER-SPONSORED SEPARATION OR SEVERANCE PLAN OR EARLY RETIREMENT PLAN IN RELIANCE ON RECEIVING BENEFITS UNDER THE ACT ON THE BASIS OF THE LAW AS IT WAS IN EFFECT AT THE TIME OF THEIR DECISION TO ACCEPT THAT EMPLOYER-SPONSORED PLAN.

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UNPAID RUIA DEBT TO RAILROAD RETIREMENT FUND TRIGGERS THREAT OF 40 PER CENT CUT IN CURRENT RETIREES' TIER II BENEFIT:

IF THE BALANCE IN THE RAILROAD RETIREMENT FUND HAD INCLUDED THE $400 to $500 MILLION OWED BY THE RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT AT THE TIME THE RAILROAD RETIREMENT BOARD MADE THE FINANCIAL ANALYSIS OF THE FUND REQUIRED BY SECTION 22, WHICH WAS ADDED TO THE ACT IN 1981, THERE WOULD HAVE BEEN NO NEED FOR THE BOARD TO THREATEN CURRENT RETIREES WITH A 40 PER CENT CUT IN THEIR TIER II BENEFIT IN OCTOBER OF THIS YEAR. THERE WOULD BE SUFFICIENT FUNDS TO PAY THE BENEFITS IN FISCAL 1984. TO THE MIS- FORTUNE OF ALL CURRENT RETIREES, THE FUND WAS SHORT THAT MONEY BORROWED FROM IT FOR RAILROAD UNEMPLOYMENT INSURANCE PAY-MENTS AND THAT SHORTAGE TRIGGERED THE 40 PER CENT CUT.

LABOR - MANAGEMENT " FUNDING " PROPOSALS " TRIGGER " CURRENT RETIREES:

WHEN INVOKED BY THE FINANCIAL CONDITION OF THE FUND, SECTION 22 ASKS LABOR AND MANAGEMENT TO MAKE RECOMMENDATIONS FOR " FUNDING " THE SYSTEM. THE INITIAL LABOR-MANAGEMENT AGREEMENT ADVOCATED EXTRACTING MORE THAN $1.6 BILLION FROM CURRENT RETIREES OVER THE NEXT 10 YEARS BY REDUCING THEIR TIER II BENEFIT BY AN AMOUNT EQUAL TO 5 PER CENT OF THEIR TIER I BENEFIT. THIS IS THE TIER I COLA OFFSET AGAINST THE TIER II BENEFIT. IT WOULD APPLY ONLY TO THOSE WHO RETIRED BEFORE THE BILL BECOMES LAW AND WOULD NOT APPLY TO ANY ONE RETIRING AFTER THE BILL BECOMES LAW. THEREFORE, AN EMPLOYEE WHO RETIRES AFTER THE BILL BECOMES LAW WILL RECEIVE A LARGER BENEFIT THAN AN EMPLOYEE WHO RETIRED BEFORE IT BECAME LAW AND WHO WOULD OTHERWISE HAVE RECEIVED THE SAME BENEFIT AMOUNT. THEIR BENEFIT AMOUNTS WILL START OUT THE SAME, BUT THE LATTER'S WILL BE REDUCED UNDER THAT PROVISION BECAUSE THE RETIREMENT STARTED BEFORE THE BILL BECAME LAW, WHILE THE FORMER'S BENEFIT AMOUNT WILL NOT BE REDUCED BECAUSE THE RETIREMENT CAME AFTER THE LAW.

CURRENT RETIREES HAVE BEEN TOLD REPEATEDLY THAT THE ONLY WAY TO AVOID A 40 PER CENT CUT ACROSS THE BOARD IN OCTOBER IS TO SUPPORT THE PENDING BILLS WHICH IMPLE-MENT THE LABOR - MANAGEMENT AGREEMENTS. THEY DO NOT REALIZE THAT UNDER THE TIER I COLA OFFSET PROVISION A LARGE PERCENTAGE OF THEM WILL SUFFER A CUT EVEN GREATER

THAN 40 PER CENT, AS GREAT AS 100 PER CENT FOR AN ALARMING NUMBER OF CURRENT RETIREES, WIPING OUT THEIR TIER II BENEFIT ENTIRELY FOR THE REST OF THEIR LIVES. FOR THOSE RETIREES, WIDOWS, WIDOWERS, AND SURVIVING DEPENDENTS THE CONTRIBUTIONS TO THE RAILROAD RETIREMENT FUND OVER THE YEARS, OVER AND ABOVE AND IN ADDITION TO SOCIAL SECURITY TAXES, WILL COME TO NAUGHT AND THEY WOULD RECEIVE NO TIER II BENEFIT FOR THE REST OF THEIR LIVES.

H.R. 3619,RECENTLY INTRODUCED IN THE HOUSE FOR PURPOSES OF FLOOR ACTION ON H.R. 1646, WOULD PUT A FLOOR OF $10 UNDER THE TIER II BENEFIT FOR THE PURPOSES OF THE TIER I COLA OFFSET, SO THAT NO TIER II BENEFIT COULD BE CUT BELOW $10. IT IS SAID THAT THIS FLOOR PROVISION WOULD COST THE FUND $3 MILLION PER YEAR. THAT PROVES THAT OVER 300,000 CURRENT RETIREES WOULD BE SEVERELY AND DIRELY AFFECTED BY THE TIER I COLA OFFSET.WE HAVE SEEN NO FIGURES AS TO HOW MANY WOULD BE WIPED OUT ENTIRELY NOR AS TO HOW MANY WOULD BE CUT TO JUST A FEW DOLLARS OR LESS THAN $10.THE PERCENTAGE CUTS HAVE TO BE LARGE AND THE NUMBERS AFFECTED LARGE TO MAKE A TOTAL CUT OF OVER $1.6 BILLION IN TEN YEARS.

WHILE IT IS TRUE THAT FUTURE RETIREES WILL PAY ADDITIONAL TAXES TO THE FUND UNDER THE BILLS, IT IS ALSO TRUE THAT THEY WILL GET PART OF THOSE ADDITIONAL TAXES BACK IN LARGER RETIREMENT BENEFITS THAN CURRENT RETIREES WILL GET BECAUSE THE TIER I COLA OFFSET WILL NOT APPLY TO THEM. FURTHERMORE, SOME, IF NOT ALL, RAIL UNION CONTRACTS PROVIDE FOR A WAGE INCREASE THIS YEAR. NO DOUBT THE RAIL UNIONS TOOK THIS INTO CONSIDERATION IN THE NEGOTIATIONS WITH MANAGEMENT AND IN AGREEING TO ADDITIONAL RAILROAD RETIREMENT TAXES ON CURRENT WORKERS.

WE CAN BE SURE THAT IN FUTURE NEGOTIATIONS BETWEEN LABOR AND MANAGEMENT LABOR WILL MAKE EVERY EFFORT TO RECOUP FOR THE CURRENT WORKERS (FUTURE RETIREES) AS MUCH AS POSSIBLE OF ANY NET LOSS IN THE CURRENT CHANGES IN TAXES AND BENEFITS. WE CAN ALSO BE SURE THAT IN FUTURE NEGOTIATIONS MANAGEMENT WILL DO EVERYTHING IT CAN TO RECOUP OR OFFSET IN SOME WAY THE INCREASE IN RAILROAD RETIREMENT TAXES IT WILL PAY UNDER BILLS. WE CAN ALSO BE SURE THAT THERE WILL BE NO WAY OR OPPORTUNITY FOR THE CURRENT RETIREES TO RECOUP OR MAKE UP FOR THE NET LOSS THEY WILL SUFFER FOR THE REST OF THEIR LIVES.

PROPOSED CHANGES IN THE 60-30 EARLY RETIREMENT PROVISIONS:

IT CANNOT BE DENIED THAT THIS PROVISION WAS GROSSLY UNDERFUNDED FROM ITS INCEPTION IN THE 1973-74 RESTRUCTURING OF THE SYSTEM, AND THAT IT IS A " PRIMARY FACTOR " IN THE PRESENT CASH-FLOW PROBLEM. IN FACT, MANAGEMENT HAS ADMITTED THAT THE CASH-FLOW PROBLEM CAUSED BY THAT UNDERFUNDING HAS BEEN CRITICAL SINCE 1980 IF NOT EARLIER.IN HIS MAY 26, 1981 REPORT TO THE CONGRESS MR. CHARLES I. HOPKINS OF THE NATIONAL RAILWAY LABOR CONFERENCE SAID THAT: "THE RATE OF EARLY RETIREMENT AND THE COST OF THAT PROVISION TO THE RAILROAD RETIREMENT ACCOUNT HAS BEEN FAR GREATER THAN WAS ESTIMATED WHEN THE 1974 ACT WAS UNDER CONSIDERATION, AND THIS EVER-INCREASING COST HAS BEEN A PRIMARY FACTOR IN UNDERMINING THE LONG-TERM FINANCIAL SOUNDNESS OF THE RAILROAD RETIREMENT SYSTEM."(EMPHASIS ADDED)IN FACT LABOR AND MANAGEMENT WERE WELL AWARE OF THE PROBLEM AND HAD DISCUSSED IT AS EARLY AS 1979, BUT NEITHER JOINTLY NOR SEPARATELY DID THEY MAKE ANY RECOMMENDATIONS TO THE CONGRESS TO CORRECT OR ALLEVIATE THAT CASH-FLOW PROBLEM.

THAT CASH-FLOW PROBLEM CANNOT BE BLAMED ON LOW-EMPLOYMENT LEVELS IN THE RAIL INDUSTRY IN THE 1974-81 PERIOD. TOTAL EMPLOYMENT IN THE INDUSTRY AVERAGED 550,000 ANNUALLY DURING THE 1974-80 PERIOD AND DID NOT DROP BELOW 500,000 UNTIL 1982.

PUBLISHED STATISTICS OF THE RAILROAD RETIREMENT BOARD TELL THE STORY: THE NUMBER OF RETIREMENTS AT 65 OR OLDER DECREASED DRAMATICALLY AND THOSE AT 60 TO 64 INCREASED EQUALLY DRAMATICALLY AND THE GREAT BULK OF OF THE LATTER WERE AT UNREDUCED BENEFIT LEVELS.IT IS NO MYSTERY WHY THIS CAUSED A SEVERE DRAIN ON THE FUND. EACH EARLY RETIREE AT FULL BENEFIT DREW BENEFITS AS IF RETIRED AT 65 WITH 30 OR MORE YEARS OF SEVICE FOR 1,2,3,OR 4 MORE YEARS THAN WOULD HAVE BEEN POSSIBLE BEFORE THE 60-30 RULE WAS INSTITUTED, AND THAT INCLUDED THE FULL SOCIAL SE-

CURITY BENEFIT EVEN THOUGH THE RETIREE WAS NOT ELIGIBLE FOR FULL SOCIAL SECURITY BENEFITS. THEREFORE, THE RAILROAD RETIREMENT FUND WAS NOT RE-IMBURSED BY SOCIAL SECURITY FOR THE FULL AMOUNT PAID OUT OF THE RAILROAD RETIREMENT FUND AS A SOCIAL SECURITY BENEFIT. THIS CAUSED A SEVERE DRAIN ON THE FUND AND PROVISIONS HAD NOT BEEN MADE TO INCREASE THE PAYMENTS INTO THE FUND TO PAY FOR THAT DRAIN. THUS, THE CASH-FLOW PROBLEM DEVELOPED.OF COURSE THE CASH-FLOW PROBLEM GOT WORSE A3 TIME WENT ON ESPECIALLY IN THE FACE OF THE DROP IN TOTAL EMPLOYMENT IN THE INDUSTRYSTARTING IN LATE 1981.

IN THEIR INITIAL AGREEMENT PURSUANT TO SECTION 22 LABOR AND MANAGEMENT ACKNOWLEDGED THE 60-30 RULE TO BE THE PROBLEM BY RECOMMENDING THAT IT BE CUT BACK TO A 62-30 RULE, THEREBY REDUCING THE SHORTFALL TO THE FUND IN THE RE-IMBURSEMENT FROM SOCIAL SECURITY AND SHORTENING THE NUMBER OF YEARS THE BENEFITS WOULD BE AVAILABLE BEFORE AGE 65. THAT INITIAL AGREEMENT HAS GONE TO ITS REWARD. BECAUSE OF PRESSURE FROM CURRENT RAILROAD EMPLOYEES (IN A YEAR OF ELECTIONS FOR UNIONS) THE UNIONS HAVE HAD TO BACK AWAY FROM THEIR ORIGINAL AGREEMENT AND SWEETEN THE CHANGES IN THE 60-30 RULE AND PROVIDE FOR AN EVER-LONGER PHASE-IN PERIOD FOR THE CHANGES, INCREASING THE COST TO THE FUND. CURRENT RETIREES HAVE NO OBJECTION TO A SWEETER RETIREMENT FOR A FUTURE RETIREE OR FOR A GREATER NUMBER OF FUTURE RETIREES AS LONG AS THE FUNDS ARE PROVIDED TO PAY THE ADDITIONAL COST AT THE SAME TIME AND PROVIDED THAT THEIR BENEFITS ARE NOT REDUCED TO PROVIDE PART OF THAT ADDITIONAL COST AND PROVIDED THAT THEIR FUTURE RETIREMENT SECURITY IS NOT ADVERSELY AFFECTED BY THAT ADDITIONAL COST.

MANAGEMENT WANTED AND BENEFITTED BY THE EARLY RETIREMENT RULE BECAUSE IT ENABLED MANAGEMENT TO GET RID OF EMPLOYEES WITHOUT HAVING TO PAY THE COST. THE COST WAS BORNE BY THE FUND,AND NOT BY MANAGEMENT, AS LONG AS MANAGEMENT DID NOT HAVE TO PAY ADDITIONAL TAXES TO THE FUND TO COVER THE ADDITIONAL COST.

ATTACHED HERETO AS ATTACHMENTS I AND II ARE COPIES OF PAGES I-13 AND I-14, RESPECTIVELY, FROM THE JANUARY 1982 INFORMATIONAL CONFERENCE HANDBOOK PUBLISHED BY THE RAILROAD RETIREMENT BOARD.THOSE TABLES GIVE A GOOD INDICATION OF WHAT HAPPENED UNDER THE 60-30 EARLY RETIREMENT PROVISIONS. DURING THE 1974-81 PERIOD UNREDUCED 60 TO 64 EARLY RETIREMENTS AVERAGED MORE THAN 14,600 PER YEAR.THEIR AVERAGE MONTHLY BENEFITS WERE RELATIVELY HIGH BECAUSE THEY HAD TO HAVE AT LEAST 30 YEARS OF RAIL SERVICE TO BE ELIGIBLE.YET DURING THAT WHOLE PERIOD THE TAX CONTRIBUTION TO THE FUND FOR TIER II REMAINED CONSTANT, EVEN THOUGH THE INDUSTRY HAD MADE A COMMITMENT TO PAY THE FULL COST OF TIER II FROM 1974 ON.

TABLE 3 ON ATTACHMENT II REVEALS THAT AS OF SEPTEMBER, 1981 MORE THAN TWO-THIRDS OF THOSE ON THE AGE RETIREMENT ROLLS HAD NOT BEEN ABLE TO TO TAKE ADVANTAGE OF THE 60-30 EARLY RETIREMENT PROVISIONS.YET LABOR AND MANAGEMENT PROPOSE TO EXTRACT FROM THAT TWO-THIRDS AS WELL AS FROM THE THE SURVIVING WIVES AND HUSBANDS AND DEPENDENT CHILDREN,WHO HAD NO NO BENEFIT FROM THE 60-30 EARLY RETIREMENT PROVISIONS, THAT PART OF THEIR TIER II BENEFIT WHICH EQUALS 5 PER CENT OF THEIR TIER I BENEFIT, AND THAT DEDUCTION WOULD BE MADE MONTHLY FOR THE REST OF THEIR LIVES.

IT IS PATENTLY UNFAIR TO NOW EXTRACT FROM CURRENT RETIREES PART OF THEIR RETIREMENT BENEFITS TO MAKE UP FOR THE UNDERFUNDING OF THE 60-30 EARLY RETIREMENT PROVISIONS FROM THEIR INCEPTION.IN RECENT MONTHS A FAMOUS, GREAT AMERICAN, WHO HOLDS AN AMERICAN EXPRESS CARD,WAS QUOTED IN ADVERTISEMENTS IN THE WASHINGTON POST DESCRIBING TYRANNY AS THE PUNISHMENT OF THE INNOCENT FOR THE SINS OF THE GUILTY.CURRENT RETIREES ARE BEWILDERED; THEY CANNOT UNDERSTAND WHY THEY ARE BEING SINGLED OUT FOR SUCH ADVERSE TREATMENT. THEY WANT THE CONGRESS TO KNOW THAT THEY STRENUOUSLY OBJECT TO THE PROPOSED REDUCTION IN THEIR TIER II BENEFIT.THERE IS NOTHING SACRED OR SACROSANCT ABOUT A LABOR-MANAGEMENT AGREEMENT.RETIREES AND THEIR DEPENDENTS RELY UPON THE CONGRESS TO REMOVE AND CORRECT INEQUITIES IN SUCH AN AGREEMENT.

RAILROAD SEVERANCE AND SEPARATION PAY PLANS AND EARLY RETIREMENT:

IN RECENT YEARS, GOING BACK TO 1980 AND PERHAPS EARLIER, SOME, IF NOT ALL, OF THE MAJOR RAILROADS HAVE USED SEVERANCE AND/OR SEPARATION PAY PLANS TO EXPEDITE THE REDUCTION IN THE NUMBER OF EMPLOYEES. UNDER THOSE PLANS THE EMPLOYEE IS INDUCED TO TAKE SEVERANCE PAY OR SEPARATION PAY IN A LUMP SUM OR IN INSTALLMENTS OVER A PERIOD OF TIME. IN MOST CASES THOSE PLANS WERE AVAILABLE TO EMPLOYEES AT THE AGE OF 55 OR OLDER.OF COURSE IN MOST INSTANCES THE EMPLOYEE'S RETIREMENT QUALIFICATIONS AND STATUS WERE AN IMPORTANT CONSIDERATION TO THAT EMPLOYEE, AND THE PLANS WERE DESIGNED TO APPLY TO THE EMPLOYEE WHO HAD ACQUIRED HIS RETIREMENT RIGHTS AND TO INDUCE THE EMPLOYEE TO LEAVE BEFORE HIS RETIREMENT BENEFITS WOULD BE ACTUALLY PAYABLE.

THE SUCCESS OF THOSE PLANS FROM THE POINT OF VIEW OF THE RAILROADS IS EVIDENCED BY THE TOTAL EMPLOYMENT LEVELS IN THE INDUSTRY IN RECENT YEARS. AS POINTED OUT ABOVE, EMPLOYMENT IN THE INDUSTRY AVERAGED 550,000 ANNUALLY DURING THE 1974-80 PERIOD. IT DID NOT DROP BELOW 500,000 UNTIL 1982. THE CLUE IS THE DIFFERENCE BETWEEN THE FIGURE CONSTITUTING THE THE DROP IN TOTAL EMPLOYMENT AND THE FIGURE CONSTITUTING THE TOTAL NUMBER OF UNEMPLOYED IN THE INDUSTRY. THE DROP IN TOTAL EMPLOYMENT WAS MUCH LARGER THAN THE NUMBER OF UNEMPLOYED. THOSE SEVERANCE AND SEPARATION PAY PLANS DID WHAT THEY WERE DESIGNED TO DO- GET EMPLOYEES OFF THE PAYROLL BEFORE THEY WERE ELIGIBLE FOR EARLY RETIREMENT OR RETIREMENT. MORE OR LESS VOLUNTARILY, MANY EMPLOYEES WITH 30 OR MORE YEARS OF SERVICE WERE INDUCED TO TAKE SEVERANCE OR SEPARATION OR EARLY RETIREMENT AT AGE 55 OR OLDER, AND THEY DID SO WITH FULL EXPECTATION OF RECEIVING, AND RELYING UPON RECEIVING, THE FULL BENEFITS UNDER THE 60-30 PROVISIONS UPON REACHING AGE 60.THEY PLANNED THEIR LIVES ACCORDINGLY.

IT WOULD BE UNFAIR TO DEPRIVE THEM OF THE BENEFIT UPON WHICH THEY RELIED. THEY HAVE NO WAY OF UNDOING WHAT WAS DONE AND NO WAY OF MAKING UP THE DIFFERENCE.

WE AND THEY HAD HOPED THAT LABOR AND MANAGEMENT WOULD RECOGNIZE THE THE INEQUITY IN THIS SITUATION AND WOULD COME UP WITH SOME REMEDY IN THE SUBSEQUENT NEGOTIATIONS WHICH RESULTED IN THE JOINT RECOMMENDATIONS OF MAY 25, 1983. THEY DID NOT. INSTEAD THEY CONCERNED THEMSELVES WITH ONLY FUTURE RETIREES AND SWEETENED THE CHANGES FOR FUTURE RETIREES. THERE IS NO INDICATION THEY GAVE ANY THOUGHT OR CONSIDERATION TO CURRENT RETIREES.THEY DO NOT HESITATE TO RECOMMEND CHANGES IN THEIR ORIGINAL AGREEMENT WHICH WILL COST THE FUND HUNDREDS OF MILLIONS OF DOLLARS IN THE FORM OF SWEETENED BENEFITS FOR FUTURE RETIREES, BUT THEY STICK WITH THEIR PROPOSAL TO EXTRACT HUNDREDS OF MILLIONS OF DOLLARS FROM CURRENT RETIREES.

A POSSIBLE ALTERNATIVE IS TO REQUIRE THE RAILROAD SPONSOR OF THE SEVERANCE OR SEPARATION PAY PLAN OR EARLY RETIREMENT PLAN INVOLVED TO MAKE UP TO THAT RETIREE THE DIFFERENCE BETWEEN THE AMOUNT ACTUALLY RECEIVED UPON REACHING THE REQUIRED AGE AND THE AMOUNT PROVIDED FOR IN THE LAW AT THE TIME OF THE SEVERANCE, SEPARATION OR EARLY RETIREMENT.

THOSE INDIVIDUALS SO AFFECTED BY THE PENDING PROPOSALS WOULD URGE THE CONGRESS TO CORRECT THAT INEQUITY.

INCOME TAXATION OF TIER II BENEFITS:

MANY RETIREES HAVE CALLED TO OUR ATTENTION THE FACT THAT THE BENEFITS UNDER TIER II WERE FIXED AT PRESENT LEVELS IN THE LEGISLATIVE PROCESS AS WELL AS THE LABOR-MANAGEMENT NEGOTIATION PROCESS IN THE EXPECTATION OF ALL CONCERNED THAT THOSE BENEFITS WOULD BE EXEMPT FROM THE INCOME TAX, AS THEY HAVE BEEN. THE RAILROADS WERE ABLE TO USE THE EXEMPT STATUS AS A LEVER OR MEANS FOR ACHIEVING SUBSTANTIAL SAVINGS IN THEIR PENSION COSTS RELATIVE TO THE PENSION COSTS FOR THE REST OF THE PRIVATE INDUSTRY SECTOR.OF COURSE THE RAIL UNIONS FOUND THAT APPROACH ACCEPTABLE BECAUSE THEY CORRECTLY PERCEIVED THAT WITH UNTAXED PENSIONS RAIROAD RETIREES WOULD BE ABLE TO MAINTAIN A STANDARD OF LIVING SOMEWHAT COMPARABLE TO

THAT OF THEIR RETIREE COUNTERPARTS IN OTHER SEGMENTS OF THE PRIVATE INDUSTRY SECTOR, EVEN THOUGH THE PENSION AMOUNTS MIGHT NOT BE COMPARABLE. THOSE ADVERSELY AFFECTED BY THIS PROPOSAL LOOK UPON IT AS A WAY FOR MANAGEMENT TO SHIFT A SIGNIFICANT PORTION OF THE FUNDING BURDEN TO THE RETIREES, THEREBY LESSENING THE BURDEN FOR THE EMPLOYERS , ALL INSPITE OF THE COMMITMENT MADE BY MANAGEMENT IN 1974 TO PAY THE FULL FUNDING COST OF THE TIER II PORTION OF RAILROAD RETIREMENT FROM THEN ON..

THOSE RETIREES SO ADVERSELY AFFECTED RECOMMEND THAT LEGISLATION FOR TAX-ING THE TIER II BENEFIT ALSO INCREASE THE AMOUNTS OF THOSE BENEFITS TO OFFSET THE TAX AND INCREASE THE TAX ON THE EMPLOYERS TO THE EXTENT NECESSARY TO FUND THE INCREASE IN BENEFITS.IN THIS WAY THE EMPLOYERS WOULD BE HELD TO THE COMMITMENT THEY MADE AND RETIREES COULD CONTINUE TO RELY ON THAT PART OF THE PENSION PLAN WHICH WAS DESIGNED TO BE LIKE OTHER PRIVATE INDUSTRY PENSION PLANS, FINANCED ENTIRELY BY THE INDUSTRY.

REST ASSURED THAT IN FUTURE NEGOTIATIONS RAIL LABOR WILL MAKE EVERY POSSIBLE EFFORT TO MAKE UP THE DIFFERENCE UNDER THIS PROPOSAL FOR EMPLOYEES RETIRING IN THE FUTURE. THEY SHOULD DO THAT AND THEY CAN BE RELIED UPON TO DO IT. WHAT ABOUT THE CURRENT RETIREE AND THOSE WHO RE-TIRE BEFORE RAIL UNIONS ARE ABLE TO GET CONCESSIONS FROM MANAGEMENT" TO OFFSET THIS LOSS IN WHOLE OR IN PART? THEY WILL JUST HAVE TO SUFFER THE LOSS AND ADJUST THEIR LIVING ACCORDINGLY, ESPECIALLY IF THEIR AGE AND/OR HEALTH MAKES IT IMPOSSIBLE FOR THEM TO MAKE UP THE DIFFERENCE BY GOING TO WORK AGAIN.

AS TO THIS ISSUE ALSO, JUST BECAUSE MANAGEMENT AND LABOR HAVE AGREED TO IT DOES NOT MAKE IT FAIR OR RIGHT. RETIREES MUST AND DO RELY ON THE CONGRESS TO CRITICALLY ANALYZE THE AGREEMENTS OF LABOR AND MANAGEMENT AND TO REJECT OR CORRECT THOSE THAT ARE NOT FAIR OR EQUITABLE TO CURRENT RETIREES OR THEIR DEPENDENTS IN THE CIRCUMSTANCES.

Table 2. - Number and average amount of benefits awarded under the Railroad Retirement Act, fiscal year 1981

Type of benefit	Number	Average amount
MONTHLY BENEFITS		
Age 65 or over	4,400	$600
Age 60-64, unreduced	13,400	959
Age 62-64, reduced	3,300	336
Age retirements, total	21,200	787
Disability retirements	5,700	694
Regular employee annuities, total	26,900	767
Supplemental employee annuities	14,300	42
Unreduced spouse annuities	16,300	348
Reduced spouse annuities	5,000	167
Spouse annuities, total	21,300	305
Aged widow(er)s	17,000	472
Disabled widow(er)s	500	364
Widowed mothers and fathers	700	460
Children	2,100	430
Parents	(1)	457
Survivor annuities, total	20,300	464
Total	82,900	....
LUMP-SUM BENEFITS		
Insurance lump sums	11,800	$786
Residual payments	1,000	6,058
Total	12,800	.....

1 Fewer than 50.

NOTE.--Detail may not add to totals shown because of rounding.

ATTACHMENT I

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Table 3. - Number and average amount of monthly benefits under the Railroad Retirement Act in current-payment status on September 30, 1981

Type of benefit	Number	Average amount
Age 65 or over	181,900	$500
Age 60-64, unreduced	105,300	877
Age 60-64, reduced	67,400	329
Age retirements, total	354,600	579
Disability retirements	93,700	525
Regular employee annuities, total	448,400	568
Supplemental employee annuities	193,400	52
Unreduced spouse annuities	131,000	308
Reduced spouse annuities	103,000	178
Spouse annuities, total	234,000	251
Aged widow(er)s	288,600	401
Disabled widow(er)s	7,200	331
Widowed mothers and fathers	4,500	442
Children	26,100	393
Parents	200	357
Survivor (option)	200	97
Survivor annuities, total	326,800	399
Total	1,202,600	....

NOTE. - Detail may not add to totals shown because of rounding.

ATTACHMENT II

The CHAIRMAN. I have no questions. I certainly think you have made a point; but, again, I would say as we have said to the other witnesses, if in fact—in other words, you would hold up the bill until——

Mr. DUXBURY. No, I wouldn't hold it up. I would merely take out section 102 and put in a provision for a study by the Railroad Retirement Board, like the last section of the bill which provides for a study on unemployment insurance, and have the Board report to the Congress by April 1, 1984, or whatever the date is; because there is still time. If you want to extract that much money from the retirees, you can enact it in 1984 in April or May when you are dealing with the unemployment issue.

There is some relation between the unemployment issue and this fund, because the retirees are sitting with the railroad retirement fund, having a debt from unemployment insurance. And certainly retirees shouldn't be forced to support or subsidize the railroad unemployment insurance program.

The CHAIRMAN. Well, I think, again, we will be happy not to knock out section 102 but to seriously consider your suggestions. We are going to be back here by April 1 of next year.

I think it is well to keep in mind that these benefits are partially indexed, which is not true in most pensions, which I think is one distinction.

Senator Bradley, do you have questions?

Senator BRADLEY. No, I don't, Mr. Chairman.

The CHAIRMAN. Senator Long?

Senator LONG. No questions.

The CHAIRMAN. Senator Heinz?

Senator HEINZ. Mr. Chairman, I would like to express some sympathy for the point of view expressed by the witness. I endorse the legislation before us, and I think the reality is that we should move promptly to the floor with it, or at least allow it to be held at the desk so we can take it up.

It is somewhat regrettable that the House has been a little slow in sending it to us; but, on the other hand, rail labor and management have, in a sense, gone back to the drawing boards several times; they have attempted to improve the original agreement, and indeed they have done so.

My concern is that there is going to be a rather significant impact on beneficiaries from the COLA offset provisions. The bill causes the next 5 percent of social security cost-of-living increases to be used to reduce the retirees' tier 2 benefit dollar for dollar.

We don't know, as of today, whether or not the economic recovery—and the recovery of the rail industry—are going to be such that the full 5-percent offset will in fact be needed to restore the solvency of the railroad retirement system. There is a chance that the second phase of the COLA offset on January 1, 1985, will not be required if the rail industry recovers from the recession.

It would be highly desirable if we found a means of addressing that possibility What we might consider, Mr. Chairman, is a formal study of this provision—one that we can receive not in 1985 but in 1984—at a suitable date so that we can take action if we deem it necessary to adjust these COLA provisions that otherwise take effect automatically on January 1, 1985.

It would be preferable for such a study provision to be made a part of this bill, and I don't think it would cause us any problems with the House of Representatives to do that.

The CHAIRMAN. Well, we have had another request for a study, and I think we can do it without putting it in the bill—have an independent study by GAO or Treasury. Senator Bradley had the same request on commuter lines. But I don't think we need legislation to get a study around here.

Senator HEINZ. I don't know sometimes what it takes to get a study completed around here and acted on.

The CHAIRMAN. We don't want to amend the legislation, but we would certainly entertain a study; if you tell us who you want to study it and what you want studied, we'd be glad to study it. I am not certain whether you would have any results by then, but maybe we could have the study back by April 1.

Senator HEINZ. That could be a little soon, Mr. Chairman.

The CHAIRMAN. It might be.

Senator HEINZ. Because the central issue is the recovery of the railroad industry. The rail industry may lag somewhat the overall economic recovery, but we would be pleased to work with you and your staff to develop a meaningful study.

The CHAIRMAN. I think Mr. Duxbury could be helpful, too, in that area.

Mr. DUXBURY. I would be glad to help in any way I can.

Senator HEINZ. Let me ask Mr. Duxbury—I missed part of your testimony, but I gather you and I share the same concern. Is that correct?

Mr. DUXBURY. Yes, I feel that the tier-1 COLA set against the tier-2 benefit is very unfair, because it applies only to current retirees and not future retirees. Future retirees will receive larger benefits than current retirees for that reason.

And while there are additional taxes on current workers, future retirees, it must be remembered that those future retirees will get that money back in several ways, because they will get it back in terms of higher benefits than the current retirees will get.

What is going to happen is that people who think that the passage of this bill will eliminate a cut of their benefit will find, after it is in effect, that their cuts will range up as high as 80 percent, and they thought they weren't going to get any cut at all.

Senator HEINZ. Mr. Chairman, I thank you.

The CHAIRMAN. Thank you, Senator Heinz.

Senator Chafee?

Senator CHAFEE. No questions, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Duxbury.

Mr. DUXBURY. Thank you.

The CHAIRMAN. The hearing is completed. If anybody else in the hearing room would like to insert a statement in the record, we will do our best to get the bill up today, if not—tomorrow. Thank you very much.

[Whereupon, at 10:46 a.m. the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, D.C., August 12, 1983.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As the Committee considers legislation dealing with the railroad unemployment insurance (RRUI) program, such as S. 1074 or S. 1076, I respectfully urge you to delete provisions transferring the RRUI debt to, and authorizing new advances to RRUI from, the account in the Unemployment Trust Fund used for loans to states. Moreover, if the RRUI program is phased out, and the railroad industry becomes part of the regular unemployment compensation (UC) program, I urge you to assure that UC benefit costs are assessed against rail employers on a cost reimbursement basis (including administrative costs), for a sufficient period to establish state UC tax rates based on the experience of each employer.

RRUI, the special program for the railroad industry, is administered by the railroad retirement system and financed by a flat tax on payroll. It is running a large deficit, currently $650 million but projected to reach $2 billion by 1988. Shortfalls in funds for RRUI are made by advances from the railroad retirement trust fund, which also is solvent.

Several proposals before the Committee affect RRUI. S. 1074 would transfer the RRUI indebtedness to the Unemployment Trust Fund; S. 1076 would phase out RRUI and place the railroad industry under the regular UC system.

Transferring the RRUI debt to the Unemployment Trust Fund would effectively shift those costs to the business community at large. In addition, placing railroads under the regular UC program could also result in such a cost shift, adding to the burden on the insolvent UC system. Temporary use of cost reimbursement financing would assure that rail employers (1) pay no less—and no more—than the actual cost of UC benefits based on service performed for them, and (2) develop an experience-rated cost history so that state UC tax rates can be assessed accurately when they enter the system.

For additional information, feel free to have your staff contact Eric Oxfeld, our issue manager for unemployment compensation, at 463-5514.

I will appreciate your consideration of our views. Please include this letter in the hearings record on RRUI.

Cordially,

HILTON DAVIS.

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